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SECURITY OF FBI BACKGROUND FILES
JUNE 19, 1996

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HEARING
BEFORE THE
COMMITTEE ON
GOVERNMENT REFORM
AND OVERSIGHT
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTH CONGRESS
SECOND SESSION

JUNE 19, 1996

Printed for the use of the Committee on Government Reform and Oversight

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SECURITY OF FBI BACKGROUND FILES

JUNE 19, 1996

WEDNESDAY, JUNE 19, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room 2154, Rayburn House Office Building, Hon. William F. Clinger, Jr. (chairman of the committee) presiding.

Present: Representatives Clinger, Gilman, Burton, Morella, Shays, Schiff, Ros-Lehtinen, Zeliff, McHugh, Horn, Mica, Blute, Davis, McIntosh, Fox, Tate, Chrysler, Gutknecht, Souder, Martini, Scarborough, Bass, LaTourette, Sanford, Ehrlich, Collins of Illinois, Waxman, Lantos, Wise, Owens, Towns, Spratt, Slaughter, Kanjorski, Condit, Peterson, Sanders, Thurman, Maloney, Barrett, Norton, Moran, Green, Meek, Fattah, Brewster, Holden, and Cummings.

Staff present: James Clarke, staff director; Judy Blanchard, deputy staff director; Kevin Sabo, general counsel; Jonathan Yates, counsel; Judith McCoy, chief clerk; Barbara Olson, chief investigative counsel; Barbara Comstock, special counsel; Joe Loughran, investigator/professional staff member; Edmund Amorosi, director of communications; Teresa Austin, assistant clerk; Kristi Remington, investigator; Lauri Taylor, investigator; David Jones, staff assistant; Bud Myers, minority staff director; David Schooler, minority chief counsel; Ronald Stroman, minority deputy staff director; Ellen Rayner, minority chief clerk; Cecelia Morton, minority office manager; and Jean Gosa, minority staff assistant.

Mr. CLINGER. The Committee on Government Reform and Oversight will come to order.

We are going to proceed this morning. I will give an opening statement, Mrs. Collins will give an opening statement, and then other members, if they have opening statements, they will submit them for the record or use the time period which would be allotted to questioning the witnesses to make their opening statements.

We meet this morning to discuss a very troubling development that has been uncovered in the course of our investigation into the White House Travel Office matter. The scope of this morning's hearing will be limited to the consideration of procedures that have been in place for a number of years for the White House requests for classified information FBI files. In a future hearing, we will consider how those procedures have been carried out by the present administration.

On May 30, 1996, several weeks after the White House ostensibly had claimed executive privilege over 3,000 pages of Travelgate documents which it continued to hold, the committee received from the White House 1,000 pages of those documents.

Two pages of these documents revealed a White House request for the FBI background files of former Travel Office Director, Billy Ray Dale. The reason given for the request was that Mr. Dale was being considered for access to the White House. The request was made 7 months after Mr. Dale had been fired by the White House and accused of criminal wrongdoing.

As a result of these accusations, a 30-month Department of Justice investigation was 7 months in progress, 7 months along when this highly suspect request from the White House was made. Needless to say, this request was of more than passing interest to the committee.

Last week, FBI Director Freeh issued a report indicating that this White House sought and obtained more than 400 such FBI confidential background files, as he said, without justification, in the same timeframe in late 1993, and early 1994.

The FBI report notes that at the time, FBI officials noticed that—and I am quoting—unusually large numbers of requests for copies of previous reports only, but when they contacted the White House Security Office to ensure that its new occupants understood the process, the FBI was assured that the White House was—quoting—simply updating its files.

These files were predominantly those of Republican officials from the Bush and Reagan administrations and included prominent figures such as former Secretary of State James Baker, former Bush Press Secretary Marlin Fitzwater, former CIA Director William Colby, and even one of today's witnesses, former Reagan White House Counsel A.B. Culvahouse. These improperly obtained files were never returned to the FBI until the past few weeks.

In his report, Director Freeh also noted that among the unquestionable, unjustified acquisitions were reports relating to discharged Travel Office employees Billy Ray Dale and Barnaby Brasseux. He also noted that an additional 71 files were requested inappropriately and were only turned over to the FBI on June 13. That was 1 day before the FBI report was issued. Seventeen other files, we understand, are still in question, and still retained by the White House, and are still sort of in limbo as to whether they should be returned to the FBI.

So while we continue to try to uncover the facts and determine what led to what I think we all agree was an incredible invasion of the privacy of more than 400 individuals, I am very pleased that new procedures have been put into place, albeit belatedly. As Director Freeh noted in his report, the long-standing former system of providing FBI files to the White House relied on—and in his words—the good faith and honor of those who were integrally involved in the process.

This standard, apparently sufficient for more than 30 years, in the absence of any reported abuse, demonstrated serious weaknesses when individuals who were incompetent individuals, or perhaps worse, were put in charge of the system at the Clinton White House.

It now seems abundantly clear that the system in place was, in fact, vulnerable to misuse, and actions have now fortunately been taken to remedy those weaknesses, and I again applaud Director Freeh for making the changes swiftly and for accepting the responsibility for the actions of the FBI. He could have assigned blame to lower-level file clerks or imagined computer glitches, but he did not.

Director Freeh has described the prior system which has been used throughout both Democrat and Republican administrations and which, it now appears, was indeed very vulnerable to abuse. I believe the changes and new safeguards in this exchange of sensitive information will be welcomed on a bipartisan basis. As the Boston Globe noted, "High officials' misuse of confidential information about their own citizens has produced some of the most shameful chapters in American history; not all of it, unfortunately, in the past."

It is important that we not only avoid repeating the mistakes of the past but that we put procedures in place that assist in assuring that no new abuses arise. That is the function of this committee. I also welcome the changes made by the White House counsel in procedures in conjunction with the FBI recommendations.

But while new systems are welcome in this extraordinarily sensitive area, I would note, no system that involves sensitive security matters can be invulnerable to incompetent or, worse, malicious individuals who do not have a sufficient appreciation for the seriousness of such a responsibility as handling FBI background files.

The casualness with which this White House has approached many areas of security and protocol reflect, I think, a contempt for process and a disturbing lack of respect for following the rules. It seems the White House, that is intent on keeping secret so many of its own documents, has an unacceptably loose standard when it comes to the confidential background files of average American citizens, private citizens.

Incredibly, while the White House says it acknowledges this gross error in obtaining the files of Reagan and Bush officials, the individual who oversaw this office was only placed on paid administrative leave 2 days ago. A long-time Democratic political operative and Clinton/Gore campaign aide, Craig Livingstone was placed in charge of personnel security from day one of the Clinton administration.

His direct superior, Rose Law Firm partner Bill Kennedy, came a month or so later to the White House as the deputy counsel. Mr. Kennedy subsequently was relieved of his duties in overseeing these matters when news of his failure to pay nanny taxes and his failure to include this information on his own background investigation was brought to light.

While Mr. Kennedy and three White House counsels have come and gone, Mr. Livingstone remained in this intensely sensitive position until this past Monday, June 17. And one has to ask the question, why? Was this really the best individual that the White House could find for this extremely sensitive position?

And isn't it troubling that Mr. Livingstone sought out another seasoned political operative to be detailed to the White House and it is this 50-something-year-old man who was initially described by

the White House as a low-level clerk, apolitical, individual bureaucrat who fouled up these sensitive procedures?

The reason we have background files in the first place is so that it is possible to assess the suitability of those in sensitive positions. It is ironic that while the White House wants us to accept its defense of incompetence as the reason for obtaining these files, it was willing to retain an individual at the center of the incompetence until the mounting furor forced its hand and it hoped that we would ignore the fact that the "low-level clerk" was an experienced investigator with Democratic political credentials going back many years.

It is important to know at the outset that we never would have learned what Director Freeh correctly called "egregious violations of privacy," if not for the contempt vote in this committee over a month ago in trying to obtain White House compliance with our bipartisan subpoenas. The documents which revealed this travesty were among the 1,000 pages of Travelgate documents that the White House had withheld for months.

The White House never disclosed to the committee that it was withholding Billy Dale's FBI background file which the White House sought and obtained over 7 months after he was fired. Instead, the White House said it had personnel files on Mr. Dale which are an entirely different item and were, in fact, separately provided to the committee. It was only on the morning of the contempt vote that these documents were turned over.

I have to say that this kind of evasiveness does not inspire the confidence that allows us to complete this investigation and, on the contrary, raises our level of skepticism about the various reasons and excuses that have been offered with regard to this whole matter.

The White House and the involved individual have offered numerous excuses for what even Chief of Staff Leon Panetta has acknowledged was an inexcusable mistake. As the New York Times has noted, President Clinton's staff has a talent for forcing people to choose between incompetence and skullduggery as an excuse for their managerial snafus.

We are still deposing witnesses and gathering the documents we think are necessary to find out the facts behind this unprecedented, unauthorized, and inappropriate gathering of confidential FBI background files.

Whether this was part of a larger pattern of trying to compromise the FBI or part of the all too familiar pattern of incompetence and incredibly mismanaged recordkeeping at the White House will be the subject of further investigation and further hearings which we will be announcing very shortly.

[The prepared statement of Hon. William F. Clinger, Jr. follows:]

PREPARED STATEMENT OF HON. WILLIAM F. CLINGER, JR., A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF PENNSYLVANIA

Good morning. We meet this morning to discuss a very troubling development that has been uncovered in the course of our investigation into the White House Travel Office matter. On May 30, 1996, several weeks after the White House ostensibly had claimed Executive Privilege over 3,000 pages of Travelgate documents which it continued to withhold, the Committee received from the White House 1,000 pages of those documents.

Two pages of these documents revealed a White House request for the FBI background files of former Travel Office Director Billy Ray Dale. The reason given for the request was that Mr. Dale was being considered for access to the White House. The request was made seven months after Mr. Dale had been fired by the White House and accused of criminal wrongdoing. As a result of these accusations, a 30-month Department of Justice investigation was seven months along when this highly suspect request from the White House was made. Needless to say, this request was of more than passing interest to the Committee.

Last week, FBI Director Freeh issued a report indicating that the White House sought and obtained more than 400 such FBI confidential background files "without justification" in the same time frame in late 1993 and early 1994. The FBI report notes that at the time, FBI officials noticed the "unusually large number of requests . . . for copies of previous reports only" but when they contacted the White House Security Office to ensure that its new occupants understood the process, the FBI was assured that the White House "was simply updating their files."

These files were predominantly those of Republican officials from the Bush and Reagan Administrations and included prominent figures such as former Secretary of State James Baker, former Bush Press Secretary Marlin Fitzwater, former CIA Director William Colby and even one of today's witnesses, former Reagan White House Counsel A.B. Culvahouse. These improperly obtained files were never returned to the FBI until the past few weeks.

In his report, Director Freeh also noted that "among the unquestionably unjustified acquisitions were reports relating to discharged Travel Office employees Billy Ray Dale and Barnaby Brasseur." He also noted that an additional 71 files were requested inappropriately and were only turned over to the FBI on June 13—one day before the report was issued. Seventeen other files are still in question and continue to be held at the White House.

While we continue to try to uncover the facts and determine what led to this incredible invasion of the privacy of more than 400 individuals, I am very pleased that new procedures have been put into place, albeit belatedly. As Director Freeh noted in his report, the long-standing former system of providing FBI files to the White House relied on the "good faith and honor" of those who were integrally involved in the process.

This standard, apparently sufficient for more than 30 years in the absence of any reported abuse, demonstrated serious weaknesses when individuals who were incompetent individuals—or perhaps worse—were put in charge of the system at the Clinton White House. It now seems abundantly clear that the system in place was vulnerable to misuse and actions have now been taken to remedy those weaknesses. I applaud Director Freeh for making the changes swiftly and for accepting responsibility for the actions of the FBI. He could have assigned blame to low-level file clerks or imagined computer glitches but he did not.

Director Freeh has described the prior system which has been used throughout both Democrat and Republican Administrations and which, it now appears, was very vulnerable to abuse. I believe the changes and new safeguards in this exchange of sensitive information will be welcomed on a bipartisan basis. As the Boston Globe noted, "High officials' misuse of confidential information about their own citizens has produced some of the most shameful chapters in American history—not all of it, unfortunately, in the past."

It is important that we not only avoid repeating the mistakes of the past but that we put procedures in place that assist in assuring that no new abuses arise.

I also welcome the changes made by the White House Counsel in procedures in conjunction with the FBI recommendations. But while new systems are welcome in this sensitive area, I would note, no system that involves sensitive security matters can be invulnerable to incompetent—or worse—malicious individuals who do not have a sufficient appreciation for the seriousness of such a responsibility as handling FBI background files.

The casualness with which this White House has approached many areas of security and protocol reflect a contempt for process and a disturbing lack of respect for following the rules. It seems the White House that is intent on keeping secret so many of its own documents, has an unacceptably loose standard when it comes to the confidential background files of average American citizens.

Incredibly, while the White House says it acknowledges this gross error in obtaining the files of Reagan and Bush officials, the individual who oversaw this office was only placed on paid administrative leave two days ago. A long-time Democratic political operative and Clinton-Gore campaign aide, Craig Livingstone, was placed in charge of Personnel Security from day one of the Clinton Administration.

His direct superior, Rose Law firm partner Bill Kennedy came a month or so later to the White House. Mr. Kennedy subsequently was relieved of his duties in over-

seeing these matters, when news of his failure to pay "nanny taxes" and his failure to include this information on his own background investigation was brought to light. While Mr. Kennedy and three White House Counsels have come and gone, Mr. Livingstone remained in this intensely sensitive position until this past Monday, June 17. Why? Was this the best individual this White House can find for this sensitive position?

And isn't it troubling that Mr. Livingstone sought out another seasoned political operative to be detailed to the White House and it is this 50 something year old man who initially was described by the White House as a "low-level" clerk who fouled up these sensitive procedures? The reason we have background files in the first place is so that it is possible to assess the suitability of those in sensitive positions.

It is ironic that while the White House wants us to accept its defense of gross incompetence as the reason for obtaining these files, it was willing to retain an individual at the center of the incompetence until the mounting furor forced its hand and it hoped that we would ignore the fact that the "low-level" clerk was an experienced investigator with Democratic political credentials.

Recall that the seven Travel Office workers were unmercifully sacked based on false allegations of "gross mismanagement" yet President Clinton has not fired anyone on his staff for invading the private FBI files of over 400 people, a much more significant offense.

It is important to note at the outset that we never would have learned of what Director Freeh correctly called "egregious violations of privacy" if not for the contempt vote in this Committee over a month ago in trying to obtain White House compliance with our bipartisan subpoenas. The documents which revealed this travesty were among one thousand pages of Travelgate documents that the White House had withheld for months.

The White House never disclosed to the Committee that it was withholding Billy Dale's FBI BACKGROUND FILE which the White House sought and obtained over seven months after he was fired. Instead the White House said it had "personnel files" on Mr. Dale which are an entirely different item and were in fact separately provided to the Committee.

It was only on the morning of the contempt vote that these documents were turned over. This kind of evasiveness does not inspire the confidence that allows us to complete this investigation and, on the contrary, raises our level of skepticism.

The White House and the involved individuals have offered numerous excuses for what even Chief of Staff Leon Panetta acknowledges was an "inexcusable mistake" and the story is still fluid with many outstanding questions remaining.

As The New York Times has noted, "President Clinton's staff has a talent for forcing people to choose between incompetence and skulduggery as an excuse for their managerial 'snafus'". We are still deposing witnesses and gathering the documents to find out the facts behind this unprecedented, unauthorized and inappropriate gathering of confidential FBI background files.

Whether this was part of a larger pattern of trying to compromise the FBI or part of the all too familiar pattern of incompetence and incredibly mismanaged record keeping at the White House will be the subject of further investigation and hearings which we will be announcing soon.

I welcome our guests here this morning.

Mr. CLINGER. I want to welcome our guests to the hearing this morning and look forward to their testimony as they tell us what went on during their watch and how these procedures were conducted at that time. And I am now pleased to recognize the gentlewoman from Illinois, the ranking member of the committee, Mrs. Collins.

Mrs. COLLINS OF ILLINOIS. Thank you, Mr. Chairman.

I thank you for holding hearings on the improper use of FBI files, and I want to be very clear at the outset that we have no disagreement on one important issue. It was wrong to request the files of former administration officials, and it was wrong for the FBI to provide that information.

I cannot emphasize enough my concern when the private files of any American are put in the wrong hands. I strongly believe that the right to privacy is one of the most important rights of our Con-

stitution. When privacy rights are abused in connection with the potential for political misuse, my concerns are compounded.

Therefore, I welcome these hearings for two important reasons. First, if properly conducted, they can determine what actually happened in this particular case and separate fact from fiction or speculation. Second, they can provide the necessary insight to ensure that this problem is not repeated in the future.

We have relatively few facts at this moment but a high dose of speculation. The principal fact—and it is a big one—is that a large number of summary background files from the FBI relating to employees of the previous administration were improperly requested by the White House and improperly provided by the FBI. What we don't know is exactly why the files were requested, who reviewed their contents, and to whom the information contained in those files was disseminated.

We have also learned another startling fact. Under the procedures utilized by this administration as well as previous administrations dating back 30 years, it was easier to order FBI files than it was to order a box of paper clips. Apparently all that was required was a simple request form, which has not been significantly changed since the Johnson administration, with the name of the White House counsel typed at the top. No signature was required. No explanation of the need for the information was required. Thus, there was absolutely no accountability.

Now, this procedure must end. The FBI and the White House are both making changes in this system, and this committee should take a long, hard look at the changes to determine whether they go far enough.

The evidence to date also raises serious questions about the placement of individuals with campaign background in important positions in the Office of Personnel Security. I would expect the committee is going to look into measures to ensure that in the future such employees are career civil servants rather than political appointees. This committee must examine both how this improper use of these files occurred and why it occurred.

With regard to the reason for these files being requested by the White House, it was wrong, but there is a significant distinction between requests being made for a sinister political use and requests being made due to a mistake.

Now I am certain that all of my colleagues here today understand the seriousness of this distinction. We have to therefore explore the circumstances leading up to the requests for the files as well as their subsequent use to determine just how serious this problem was.

Now, I would urge all of my colleagues to consider their statements very carefully today. It is important that we stick to the facts and not rumor and not speculation. For example, I have heard various comments about this case alleging that the files were requested to get the dirt on the fired Travel Office employees. Others have speculated that the White House counsel or even the First Lady were behind some sort of campaign to embarrass former employees. However, I am unaware that the committee has the facts to prove such allegations.

The White House has characterized the episode as a bureaucratic snafu. Only further investigation will determine whether that is correct, so similarly I will not represent that theory as a matter of fact.

In short, speculation may make good partisan headlines, but it will do very little to enhance the credibility of our committee's investigation.

One of the witnesses today may begin to shed light on how the White House came into the possession of the wrong FBI files. Ms. Nancy Gemmell came to the White House in the Nixon administration and served in the Personnel Security Office in the Reagan, Bush, and Clinton administrations. She is reported to have trained the employees of the Personnel Security Office on the so-called Update Project to reconstruct the files of holdover personnel with White House passes. She is perhaps the only person testifying today who will have firsthand knowledge of this matter and can begin the process of uncovering what took place.

So I urge you, Mr. Chairman, to proceed as quickly as possible to get to the bottom of this issue. We need to bring in those actually responsible, including Craig Livingstone, Anthony Marceca, Lisa Wetzl, and any others in the Office of Personnel Security to publicly testify on exactly what occurred. Mr. Livingstone and Ms. Wetzl have already testified in depositions to this committee, and their testimony is very important.

For example, Ms. Wetzl appears to be the individual who, after Anthony Marceca left, uncovered the fact that he had wrongly requested the files of individuals no longer employed there. She apparently also discovered outdated Secret Service lists that may have formed the basis for the request.

I believe that this committee should put all of the facts on the table. At the last hearing, it was my understanding that you, Mr. Chairman, had placed all the depositions the committee had taken on the Travel Office matter on the public record. My view was shared by the Parliamentarian's Office who reviewed the transcript. However, you subsequently contended that you had placed just four transcripts on the record, with no explanation whatsoever of how those four were chosen.

I repeat that all of the depositions should be placed on the record, including, for example, those of Craig Livingstone and Anthony Marceca and Lisa Wetzl. There is no reason for the committee to be engaging in any secrecy or cover-up.

The deposition authority was requested because as you, Mr. Chairman, stated on the House floor—and I am quoting—It would be extremely impractical to expect this committee to hold enough hearings to place all the necessary witnesses under oath publicly, end quote. In other words, the purpose of the deposition authority was to provide a practical substitute for public hearings, not to convert public testimony into secret testimony.

We are not a grand jury, we are a public institution, and our rules require us to hold public hearings. The Democrats on this committee have supported your efforts to require the administration to provide all of the information we need, Mr. Chairman. Similarly, we support total disclosure by this committee, and I therefore ask unanimous consent that all transcripts of all depositions be

placed at this point in the record, and yield back the balance of my time.

Mr. CLINGER. I object to the releasing of all the depositions at this point, and the reason for that is that we are still in the process of taking depositions which we do not want to prejudice future depositions that may be taken. I can assure the gentlelady that we have every intention of making all of the depositions that we have taken thus far part of the public record.

Mrs. COLLINS OF ILLINOIS. Mr. Chairman, when do you plan to do that?

Mr. CLINGER. As soon as we have completed the deposition process, which should be in the next 2 to 3 weeks.

Mr. GILMAN. Mr. Chairman?

Mr. CLINGER. And now I am prepared to ask the witnesses for this hearing to come forward, and let me introduce them as they come. The first witness is Mr. Boyden Gray, who is the former White House Counsel to President George Bush; next, Mr. Dick Hauser, former White House Deputy Counsel to Fred Fielding under President Ronald Reagan; Mr. A.B. Culvahouse, who was the former White House Counsel to President Ronald Reagan; Ms. Jane Dannenhauer, former White House Assistant to the Counsel of the President in the Office of Personnel Security under Presidents Nixon, Ford, for 2½ months, Carter, Reagan, Bush, and, for 1 month, President Clinton; so has served under many of the preceding Presidents; and finally, Ms. Nancy Gemmell, Assistant to the Office of Personnel Security under Presidents Reagan, Bush, and Clinton.

Let the record note that we did invite Mr. Michael Cardoza, who was the Deputy White House Counsel during President Carter's administration, who was unable to attend or declined to attend.

Ladies and gentlemen, it is the practice of this committee to swear all witnesses so that we do not prejudice the rights of any witness, and if you have no objection, may I ask you to rise and be sworn in.

[Witnesses sworn.]

Mr. CLINGER. Let the record note that all of the witnesses nodded or answered in the affirmative.

I will ask you, Mr. Gray, welcome to the committee, and I look forward to your testimony.

STATEMENT OF C. BOYDEN GRAY, FORMER WHITE HOUSE COUNSEL, BUSH ADMINISTRATION; RICHARD A. HAUSER, FORMER DEPUTY WHITE HOUSE COUNSEL, REAGAN ADMINISTRATION; A.B. CULVAHOUSE, FORMER WHITE HOUSE COUNSEL, REAGAN ADMINISTRATION; JANE DANNENHAUER, FORMER OFFICE OF PERSONNEL SECURITY, NIXON TO CLINTON ADMINISTRATIONS; AND NANCY GEMMELL, FORMER OFFICE OF PERSONNEL SECURITY, REAGAN TO CLINTON ADMINISTRATIONS

Mr. GRAY. Thank you, Mr. Chairman, members of the committee.

You have my prepared statements, so I will try to be as brief as possible to summarize to try to provide you a basic framework for understanding what information we tried to—we did get from the FBI, and then how we used it.

I, of course, can only speak for the Bush administration, but we tried to follow the procedures developed in previous administrations, so anything I did right I owe to my predecessor, A.B.; anything I did wrong was our fault.

There were three categories of information that we sought from the FBI, and I have divided it into three in order to make it understandable because there was an enormous amount of paper flow involved and it was a complex process.

The first category involved requests for name checks from the FBI. That is a run-through of their computer base to see if there were any recent potentially illegal activity on the public record, so that we had an early warning signal as to whether we had a difficult problem on our hands.

We had these name checks run to build—when we came in through a new administration to build a temporary access list for people who were awaiting the full field investigations, the full investigations that would give them permanent clearance to the White House or to a Cabinet-level post.

You might want to think of this first category as a waiting list. These were people, again, who were awaiting full investigation but we had to do a brief check to make sure they could be let in the complex for a temporary period. Usually that list was supposed to provide for access only for 90 days.

Now, the second category was the request for full field investigation by the FBI in connection with new appointees, White House staff, Cabinet. Of course, in some cases appointees would have served in previous administrations, and so the full field investigation would consist of an update since their last investigation. In each of these cases, the individual would be required to fill out for the full field investigation—would begin a very lengthy form called Form 86; very, very comprehensive; many, many pages; took hours and hours to fill out.

This would be done before the FBI would start its agents into the field, and of course, by the very nature of everything, an individual who had filled out this form knew pretty well what he or she was in for.

The final category is one that has received attention in the press recently, was the updates of the semipermanent White House staff, the people who served President after President after President. This was not the highest priority because these were people who were already there, who had already been cleared, but when the back was broken, as it were, for the clearance for the new people you wanted to get in, we would recreate—we did recreate by asking for the FBI to give us copies of the files of current White House employees who were holdovers or who continued in their post from administration to administration. In due course, these files would have to be updated on a rotating 4-year basis, depending on when the individual's last clearance check had been run.

The request would go to the FBI on an office-by-office basis. When the time came for an update, of course, the update would be requested of the FBI on a chronological basis, depending on when the 4 years was about to be over.

I want to note here that what this meant for us, in any event, was that an old, if you will, dead file of someone not actually work-

ing in the White House, without requesting an old dead file, without some update information, that is, by way of a name check at the FBI or a fuller FBI investigation, served no purpose, it would have been of no value, would have led to no other action.

Now what did we do with this information, how did we obtain it, and what did we do with it? The paper flow was managed in our days by an extraordinary individual named Jane Dannenhauer, who is sitting up here, who had an unenviable task of managing what some people who used to ferry documents around the White House used to say was enormous. One of our messengers said that the paper flow into the Counsel's Office was 10 times the paper flow for all the rest of the White House combined—staff, not talking about the President. So it was a huge task.

Jane Dannenhauer was an Assistant to the President, and the office operated under my supervision, under A.B.'s supervision, under Dick's supervision, Fred Fielding who was Counsel in the first Reagan term.

The paperwork, as I say, was very tricky. Many of you will still have difficulty, I'm sure a week from now, 2 weeks from now, understanding exactly all the details, and, frankly, there are times when I wonder if I still understand all the details. You will have to ask Jane if you confound us which you may be able to do, as to actually how the paper was conducted.

But I want to make very, very clear that, as professional and as dedicated and as good-humored as Jane was, she didn't make substantive judgments on this material. That was reserved virtually exclusively to the White House Counsel, myself and my Deputy, who was John Schmitz, in the Bush administration.

She would read the files, and if there was anything remotely questionable, the file would shoot straight up into my office, where it would be read only by John Schmitz, and if he felt he couldn't make a decision based on guidelines developed by myself and him, with the President and Chief of Staff, if he felt he could not make a decision based on those principles, he would kick it to me for further discussion, perhaps with the President or the Chief of Staff.

I would guess that John Schmitz must have read hundreds, maybe a thousand, of these. I myself read probably a hundred. I never got used to it. I had a very uncomfortable feeling every time I was forced to read one. You are peering into someone's life and seeing things that nobody has any right knowing. But it was a necessary task which we felt we had to do in order to protect the country in connection with security, potential security breaches, and of course to protect the President politically.

Doing this work, really thankless work, of reading this unpleasant work of reading these files, was a central obligation of the Counsel's Office. I felt I never got out of it for the entire first years to do anything that I considered more personally rewarding or fun. It was a very, very difficult task. People will say, "Well, geez whiz, you and your deputy were political, are political," and the answer to that is yes, certainly we are political in the largest sense of the word, but we were reviewing files of our own people, not files of the Carter administration or, say, the Clinton administration.

I hope I have given you an outline of what information we obtained and generally how we obtained it, and I will stop there and let the others pick up.

[The prepared statement of Mr. Gray follows:]

PREPARED STATEMENT OF C. BOYDEN GRAY, FORMER WHITE HOUSE COUNSEL, BUSH ADMINISTRATION

BACKGROUND INVESTIGATIONS IN THE BUSH ADMINISTRATION

There are essentially three ways by which the White House reviews the background of administration employees: (1) requesting FBI "name checks" for persons needing access to the White House while their full background investigation is being conducted; (2) requesting FBI background investigations of the administration's prospective political appointees and White House staff; (3) recreating and updating the security files for those White House employees and others with White House access who remain in their jobs from one administration to the next. The tasks of reviewing these reports and making judgments about the information they contain traditionally rest on the shoulders of the White House Counsel's office.

The White House conducts a background investigation of some sort on any person requesting access to the White House complex, and on any person who is being considered for a presidential appointment. How extensive the review is depends on the situation. A state department staffer visiting on a one-time basis to assist in a briefing may be cleared based on a "name check," which I shall describe more fully below. By contrast, a military aide assigned to work every day with the National Security Council will require a full background investigation.

During the Johnson Administration, an office was established in the White House in order to assist the Counsel in processing the ever-growing number of background reviews. In the Reagan-Bush years, the head of that office, which eventually became the White House Security Office, had the title "Assistant to the Counsel to the President for Security," reflecting her role as an arm of the White House Counsel's office.

The members of the Security Office are responsible for coordinating the paperwork and authorization forms that individuals must complete before the background investigation can commence, organizing and maintaining files with the results of these investigations and reviewing these reports for any questionable information that should be brought to the attention of the White House Counsel. It is a largely thankless job, requiring long hours, superb organizational skills, attention to detail, and total discretion. It was also a job that had no authority to make judgements based on the FBI investigations. Those judgments were the province exclusively of the White House Counsel and his Deputy, working with the Chief of Staff and the President.

I. Name Checks

In the months following the inauguration of a new President, one of the administration's top priorities is to complete background investigations on the hundreds of new appointees and employees with White House access. The process begins with a "name check"—a relatively quick procedure whereby a person's name and social security number are checked against various FBI computer databases to ascertain whether the individual has a criminal history, arrest record or outstanding arrest warrants. This is the same procedure used by the Secret Service to screen casual visitors to the White House.

Once people are cleared through the name check procedure, they are eligible to receive temporary access to the White House complex while their full background investigation is processed.

II. Background Investigations

Prospective presidential appointees (such as cabinet secretaries), senior White House staff, and individuals needing repeated or permanent access to the White House (such as clerical staff or military aides) must undergo a more thorough background investigation. These investigations begin by having the individual complete and sign a "Standard Form 86," which authorizes the FBI to conduct the background investigation. The FBI then conducts an exhaustive investigation, and reports its findings in summary form to the White House.

Understandably, in the first 6-9 months of any administration the Security Office and the White House Counsel are overwhelmed by the crush of processing and reviewing hundreds of background checks for presidential appointments and new employees. The inevitable backlog that results from so many investigations being re-

quested at once requires the Security Office staff to spend 12-14 hour days just to manage the paper flow.

One thing I cannot stress enough is how sensitive these background investigations are. It is crucial for the administration to have a full and candid reporting on any aspect of an individual's background that may pose a security risk to the United States or, in the case of a presidential appointee, a political risk to the presidency. It is equally critical that this full and candid reporting be handled with the utmost care. Many reports contain rumors, gossip and embarrassing details of events long passed. Often times, the information in a background report, such as reports of an extra-marital affair, does not merit disqualification from service at the White House, but if revealed would prove terribly embarrassing to the individual involved.

It is an unfortunate fact of modern day governmental service that those in sensitive positions must submit to such an intrusive procedure. And yet hundreds of people submit to this process each year, in return for the privilege of serving the Presidency and the country. That is why I and my colleagues in the Bush Administration considered it an essential element of the pact of government service that the information gathered through this process will not be abused.

The Bush Administration employed careful procedures to ensure that background investigation files were reviewed only on a "need to know" basis. Review was permitted only by myself, my Deputy Counsel, the Director of the Security Office and, on rare occasions, associate White House counsel who were assigned by me or my deputy to handle a specific matter. We did not let others in the White House read the files, and we did not share the contents of the files with anyone who did not have a real need to know the information therein. For example, if the report was prepared for a nominee requiring Senate confirmation, only the Chair and ranking minority member of the relevant committee would review the report. Not even President Bush read the contents of these files.

We also employed procedures to ensure that the files were maintained securely. The background reports were maintained by the Security Office in a locked vault, shared by the Security Office and the presidential archivists. Within the vault, the Security files were separated from the area used by the archivists. Even at the end of an administration, when all files are archived pursuant to the Presidential Records Act, the Security files are placed in boxes and sealed by Security Office personnel, stored separately from other archived documents, and remain sealed for a minimum of 20 years.

III. Updates

When a new administration arrives at the White House on inauguration day, virtually all of the prior administration's records have been removed for storage in the presidential archives. These archived records include the Security Office records of the background investigations performed for every person with access to the White House complex. Thus, the Security Office of the incoming administration arrives to find the shelves and the filing cabinets virtually empty. Even the files relating to nonpolitical, career White House employees, such as cooks, valets or chauffeurs, will have been archived. That is what we found in transition from the Reagan administration, and it is what President Clinton's people would have found in transition from the Bush administration.

Much has been said lately about the process of updating the Security Office files on those who work at, or whose work requires regular access to, the White House complex. These "updates" are required to be performed four years after an individual's original background investigation, and every four years thereafter. The purpose of the update is to inform the White House Counsel whether an individual has engaged in any improper conduct since the most recent background investigation. Nevertheless, updates are a lower priority than the initial background investigation, because by definition, a person requiring an update has already been cleared for access.

Thus, it is only after the process of obtaining background investigations for presidential appointees and White House staff is substantially complete that the Security Office turns to the process of updating background investigations for permanent employees. Every new administration has to start this process from scratch, because the files of the prior administration's Security Office will have been sent to that President's archives. The new Security Office will not even have so much as a list reflecting who the permanent White House employees are, or when their last background investigations were performed.

The Bush Administration's procedures for processing updates consisted of 4 basic steps: (1) the Security Office would obtain from the Secret Service and verify a current list of pass holders with access to the White House complex; (2) the Office would request from the FBI copies of the previous background reports concerning

those on the list; (3) the head of the Office would review the prior reports to ascertain the date of the last background check, and to bring any derogatory information to the attention of the White House counsel; and (4) the Security Office would send a new Standard Form 86 to be completed by employees as they came due for an update investigation.

1. LIST OF CURRENT PASS HOLDERS: The Security Office regularly obtains from the Secret Service a list of the current White House complex pass holders, including employees hired by the new administration, employees who work at other agencies or outside contractors but require regular access to the White House, as well as permanent support staff. This list is voluminous at any given time, consisting of well over 1,000 names.

Upon receiving the Secret Service list, the Security Office reviews the names to confirm that the people listed have a current need for access. The reasons for confirmation are (1) the realization that the Secret Service list may not be 100% accurate, and (2) to avoid the waste of time involved in processing update paperwork for someone who no longer needs access to the White House. During the Bush Administration, the Security Office performed this confirmation through a variety of informal means. In some instances, the official reviewing the list simply had personal knowledge that a person listed was a known current employee. In other instances, names on the list were cross-checked with the White House directory, lists obtained from the White House personnel office, or different offices within the White House.

2. REQUESTING PREVIOUS REPORTS FROM FBI: The Bush Administration Security Office processed its updates on an office-by-office basis. For example, it might begin with everyone from the Executive Clerk's office, or everyone who works on-site from the General Services Administration. As it processed an office, the Security Office would prepare for each individual a form memorandum requesting from the FBI copies of the "Previous Report" prepared when the individual's prior background investigation was conducted. The memorandum would, as a formal matter, show the White House counsel as the requesting official. However, the document was routinely issued by the Director of the Security Office, without review or signature by anyone in the counsel's office. It should be noted that requests for previous reports alone, without any name check or more extensive investigation, were normally made only of individuals who already had access to the White House complex. As described above, the procedure for anyone who did not already have access would be to request a name check followed, if appropriate, by a full background investigation.

3. REVIEW OF PRIOR REPORTS: The Security Office would receive the previous report files within a week or two of requesting them. The files would be logged in, organized and maintained under separate lock and key in a White House vault shared only with the White House archivists. This vault was locked each night, but was left open during the day to facilitate access by those working within the Security Office.

As the previous reports were received, the Director of the Security Office would personally review the file to determine the date of the individual's most recent background investigation. From that review, the Security Office maintained its own list, organized month-by-month, of individuals coming due for an update. At some later date, the Director would review the reports again, this time reading through the 3-4 page summary of the FBI's background check to determine whether there was any derogatory information in the report. If so, the report was forwarded to the White House Deputy Counsel, who would make a fresh assessment of the security implications of the reported matter.

4. PROCESSING THE UPDATE INVESTIGATION: The Security Office's month-by-month list would show which individuals came due for an update each month. Updates were performed strictly on the basis of whether four or more years had elapsed since the last background investigation or update. The only exception was when some current complaint or incident involving an individual would indicate the necessity of an early review.

Employees due for an update would be sent a memorandum explaining the need for the update, and a new Standard Form 86 to be completed and returned to the Security Office. As with the initial background check, the update could not be processed without the employee's authorization by way of a signed Standard Form 86.

IV. Differences in the Clinton White House

Before leaving in March 1993, Jane Dannenhauer, the Director of the Bush Administration's Security Office, briefed multiple lawyers from the Clinton White House Counsel's office on the procedures we in the Bush Administration followed with regard to background investigations and updates. She also briefed the newly appointed director of the Security Office, Craig Livingstone.

By all appearances, the Clinton Administration chose not to follow the procedures instituted by the Bush Administration. If the press reports are to be believed, Mr. Livingstone, unlike his predecessor, had little direct involvement in the Security Office's activities relating to background investigations. He did not review the pass lists provided by the Secret Service or his Office's requests for prior reports from the FBI to determine whether the listed individuals should have White House access. Nor, apparently, did he put in place any procedures to ensure that his subordinates performed this function. It also appears that Mr. Livingstone did not personally review the FBI reports, but instead delegated that function, along with others, to a non-White House employee. Mr. Livingstone became involved only when a specific report was identified by subordinates as containing derogatory information. Finally, in the Clinton Administration, the Security Office for the first time since its creation used volunteers and other temporary non-White House employees to help with the work, although the capacity in which those people worked is not clear.

This is in marked contrast to the policies followed by the Bush Administration. The Director of the Bush Administration's Security Office was involved in her office's confirmation of Secret Service lists; she was aware of the previous report requests being made of FBI; and she was the only one in that office to review the content of an FBI investigative report. Moreover, we did not allow detailees from outside the White House or volunteers to work in the Security Office at all, because they themselves lacked the security clearance required to have access to the sensitive information maintained by the Office. Even detailees from elsewhere in the White House were limited to tasks that did not involve reviewing the FBI reports. Finally, as stated above, all judgments based on these background investigations were reserved to the White House Counsel and his Deputy, working in conjunction with the Chief of Staff and the President.

IV. Conclusion

While it may seem to some like routine paper-pushing, the process of obtaining and updating FBI background investigations is one of the most important and sensitive functions performed by the White House Counsel and the Security Office. We are entrusted on the one hand with protecting the security of the President and the country, and on the other hand with maintaining the integrity of the background investigative process. This process cannot work if those who serve the White House lack confidence that by submitting to these invasive investigations, their privacy will not be violated.

Mr. CLINGER. Thank you very much, Mr. Gray.

And now we will go to Mr. Hauser, I believe.

Mr. HAUSER. Thank you, Mr. Chairman. Mr. Chairman, members of the committee, I'm pleased to be before you today to address the important issue of the White House handling of FBI files.

I have a written statement which I've submitted, and I am going to touch on some of the elements of my statement, and I hope that my experiences during the Reagan administration will be helpful to the committee.

I had the honor of serving as Deputy Counsel to President Reagan from early in 1981 until mid-1986, when I left for the private practice of law. As Deputy Counsel, I was involved in the clearance process for Presidential appointees and the White House staff.

At some point in 1981, I assumed a greater responsibility for this from Mr. Fielding, eventually assuming almost exclusive responsibility. I would, however, continue to share and discuss with Mr. Fielding background reports that raised questions that required his judgment because of issue, position, or the individual involved.

Background reports, for the reasons that Mr. Gray was describing, were treated with great respect, and access was restricted to the Counsel's Office. To my knowledge—and I've discussed this with Mr. Fielding—background files were never shown to others in the White House, including the President, the Vice President, the Chief of Staff, or the Director of Presidential Personnel. It was un-

derstood and accepted that it was the Counsel's job whether clearance should be approved, and this decision would have been made by Mr. Fielding or me.

Certainly there were a small number of instances in which aspects of background reports would have been discussed with some of the individuals I've mentioned, but it was on a "need to know" basis, and it was without sharing the file.

In addition to the appointment process and staffing of the White House, which was a continuing process throughout the administration, the files of White House staff, career appointed, would have been updated on a routine basis, usually every 4 years. These, too, would have been reviewed by me if they contained any derogatory information, and access to the files was similarly limited.

I do not recall any instance in which the report of an official from a prior administration was requested unless it was in connection with an appointment by President Reagan.

Restricting access to information contained in the FBI background reports was intended to serve two important purposes: One, assuring the privacy of the prospective appointee or staff member; and, two, maintaining the integrity of the background investigation process.

These issues have larger public policy implications, and I mention these because I have heard that sort of like no harm, no foul, people haven't used these, therefore there is no harm to the individual or to the larger public interest. But I'd like to point out that there is already a significant loss of privacy imposed on individuals entering public service, and the careless treatment of privacy protections will surely be a deterrent for some considering public service. When called, some will stand aside.

I am personally aware of highly qualified individuals who refuse the call to serve, fearing loss of privacy, and this response is likely to be reinforced by a breakdown in the handling of FBI files, whether by this administration or future administrations, and the ramification for the staff in the future administrations is serious.

In addition, a background report is designed to produce complete and accurate information on the character, associates, reputation, and loyalty of the subject of the background check. Understandably, when interviewed by the FBI, friends, associates, co-workers, and neighbors of the subject are often reluctant to be candid, particularly if they are aware of derogatory information, for fear that it may be leaked or improperly circulated. As a consequence, these sources may sugarcoat important information or seek anonymity for fear of attribution, thus diluting the quality and usefulness of the report.

I think we can all recall instances where issues regarding suitability were not adequately surfaced during a background investigation. This problem is likely to be compounded in the future, and I know that this is a concern shared by the FBI.

Also, the careless or casual handling of matters so sensitive as background investigations erodes the confidence of citizens not only in the integrity of the decisionmaking process but in Government generally, and once this trust is lost, it is hard to regain.

I would like to briefly comment about the Special Inquiry Unit of the FBI. I had the privilege of working with several chiefs of

that unit who were dedicated, hard-working, and responsive. We worked cooperatively to improve and expedite the background investigation process, and any problems encountered would be discussed and resolved.

I think I'll stop there, Mr. Chairman. I hope these comments are helpful, and I would be pleased to answer any questions.

Thank you.

[The prepared statement of Mr. Hauser follows:]

PREPARED STATEMENT OF RICHARD A. HAUSER, FORMER DEPUTY WHITE HOUSE
COUNSEL, REAGAN ADMINISTRATION

Mr. Chairman and Members of the Committee, I am pleased to appear before you today as you address the important issue of White House handling of FBI background files for staff and political appointees. I hope that my experiences from the Reagan Administration will be helpful to the Committee.

I had the honor of serving as Deputy Counsel to President Ronald Reagan from early 1981 until my departure for the private practice of law in mid 1986. Since that time, I have been a partner with the law firm, Baker & Hostetler, and until April 1 of this year, I had the privilege of serving as Chairman of the Pennsylvania Avenue Development Corporation. Prior to my service as Deputy Counsel, my government experience included service in the White House Counsel's Office during the last year of the Nixon Administration and in the Office of the Deputy Attorney General. I also served as an Assistant United States Attorney in the Southern District of Florida and as law clerk to the Chief Judge of the United States District Court for that same district.

As Deputy Counsel, I was involved in the clearance process for Presidential appointees and White House staff. At some point in 1981, I was asked by Fred Fielding, Counsel to the President, to undertake a greater role in the review of background investigations and over time assumed primary responsibility. I would continue to share and discuss with Mr. Fielding background reports that raised questions and required his judgment because of the issue, position, or individual involved. The results of the background report would be considered along with responses to the confidential White House counsel's questionnaire and compliance with the requirements of the Ethics in Government Act before an individual would be cleared for appointment or, in the case of staff, a permanent pass issued. I would note that the Reagan Administration was the first incoming administration to have to deal with the public financial disclosure statements and other provisions of the Ethics Act, and to assist us, a senior attorney was detailed to our office from the Office of Government Ethics.

Background reports were treated with great respect and access was restricted to the Counsel's office. To my knowledge, and I have discussed this with Fred Fielding, background files were never shown to others in the White House including the President, Vice-President, Chief of Staff, or the Director of Presidential Personnel. It was understood and accepted that it was the Counsel's job to decide whether clearance should be approved, and this decision would have been made by Mr. Fielding or me. Certainly, there were a small number of instances in which aspects of a background report would have been discussed, but it was on a need to know basis and without sharing the file.

Our system also involved careful handling of background files of nominees requiring Senate confirmation. In those instances, a nominee's background would be shared, upon request, with the Committee Chairman and Ranking Member, or other member designated by them, but here, too, the control was tight. The file would be taken by an attorney in the Counsel's office and made available for the Member's review in the attorney's presence. The file would then be returned in the attorney's custody to the White House.

In addition to the appointment process and staffing of the White House, which was a continuing process throughout the Administration, the files of White House staff, career or appointed, would be updated on a routine basis, usually every four years. These, too, would be reviewed by me if they contained any derogatory information, and access to the files was similarly limited. I do not recall any instance in which the report of an official from a prior administration was requested unless it was in connection with an appointment by President Reagan.

Restricting access to the information contained in the FBI background reports was intended to serve two important purposes:

1. Assuring the privacy of the prospective appointee or staff member; and

2. Maintaining the integrity of the background investigation process.

These issues have larger public policy implications. There is already a significant loss of privacy imposed on individuals entering public service, and the careless treatment of privacy protections will surely be a deterrent for some considering public service. When called, some will stand aside. I am personally aware of highly qualified individuals who refused the call to serve fearing loss of privacy. This response is likely to be reinforced by a breakdown in the handling of FBI files. The ramification for staffing future Administrations is serious.

Moreover, a background report is designed to produce complete and accurate information on the character, associates, reputation, and loyalty of the subject of the background check. Understandably, when interviewed by the FBI, friends, associates, co-workers, and neighbors of the subject are often reluctant to be candid, particularly if they are aware of derogatory information, for fear that it may be leaked or improperly circulated. As a consequence, these sources may "sugar coat" important information or seek anonymity for fear of attribution, thus diluting the quality and usefulness of the background report. We can all recall instances where issues relating to suitability were not adequately surfaced during a background investigation. This problem is likely to be compounded in the future. This is also a concern shared by the FBI.

Finally, the careless or casual handling of matters so sensitive and personal as background investigations erodes the confidence of citizens not only in the integrity of the decision making process but in government generally. Once this trust is lost, it is hard to regain.

I would also like to make a brief comment about the Special Inquiry ("SPIN") unit of the FBI. I had the privilege of working with several chiefs of that unit who were dedicated, hard working, and responsive. We worked cooperatively to improve and expedite the background investigation process, and any problems encountered would be discussed and resolved. Our experiences, for example, led to a revision of the Standard Form 86, used to commence a background investigation, by eliminating certain unnecessary data, which slowed down the process, and requesting other pertinent information.

I hope this information is helpful, and I would be pleased to answer any questions Members of the Committee may have. Thank you.

Mr. CLINGER. Thank you very, much Mr. Hauser.

Now we will hear from Mr. Culvahouse.

Mr. CULVAHOUSE. Thank you, Mr. Chairman.

I also have submitted a written statement for the record. Many of the points covered therein have been covered by my predecessors and colleagues, and I will just briefly summarize a few points.

I had the privilege of serving as President Reagan's White House counsel for 22 months beginning in March 1987. I was recommended to the President by Senator Howard Baker, who was then the new White House Chief of Staff. I had the honor of serving as Senator Baker's chief legislative assistant for 3 years, my first assignment was to sit behind Senator Baker during the Senate Watergate Committee hearings as he posed that famous question to John Dean.

Senator Baker and I, when we came to the White House, had negotiated with President Reagan, because of the pressure that the White House was under to deal with the Iran-Contra investigations, the authority to revamp the White House staff to his liking with some exceptions.

Interestingly enough, Mr. Chairman, in terms of the inquiry of this committee, I remember the two of us sitting down with Marlin Fitzwater, who described the press operation and weaknesses thereof; and as Marlin was leaving, Marlin said, "And, oh, by the way, there is some office in the White House called the Travel Office. Most of the political White House staff believe it to be populated by people appointed by President Johnson, but please don't

fire them, because if you do, the White House press will make my life forever difficult." So we took Marlin's advice.

We got the same reports when I looked at Counsel's Office staff. It was a system and was a group of people that worked well, that were hugely respected; and I think the two people that received the highest marks not only from their fellow White House staff members but from the Secret Service, the FBI, and the many people with whom we worked, were my Deputy, Jay Stephens, and Jane Dannenhauer. They ran a professional operation. It wasn't broke; it didn't need to be fixed; and I was encouraged to not make any changes. I did not, and I am glad I didn't.

I think that the culture and the procedures that were developed are a tribute not only to my predecessors, to Fred Fielding, Dick Hauser, and Peter Wallison, but, frankly, to people like Lloyd Cutler and Michael Cardoza in the Carter administration.

As the FBI report points out, many of these procedures date back to 30 years. That is not to say they couldn't be improved, that is not to say we shouldn't learn lessons from what has gone awry, but I think the culture of professionalism, of confidentiality, of care and attention to detail is something that has grown up over the years and is not attributable to one President or to two Presidents but to several Presidents and several White House counsel.

Reviewing FBI files is a solemn legal and ethical obligation. I share with Boyden Gray my distaste. It was the least attractive feature of my job. I did not want to know that much about my colleagues or about other senior governmental officials.

If you look at the questions on the Standard Form 86, it is designed to affirmatively encourage the furnishing of adverse information and of derogatory information. It asked: Have you ever had counseling for drug or alcohol abuse, or mental health counseling? It asked: Have you ever been arrested, other than a minor traffic offense? It asked: Have you used drugs since age 18? Have you ever had a problem with alcohol? Have you failed to pay taxes? And then there is the catch-all at the end: And please tell us anything else that might be embarrassing to you, the President, or your family.

That is not asked only of you, the person going through clearance, it is asked of your friends, your neighbors, and people who may not be your friends. And then you also have the FBI name check. It goes to the SEC looking for people with the same names.

So in my experience, almost every—I can't say that—a significant number, perhaps the majority, of FBI files I saw had some derogatory information, often wrong, often uncorroborated, often unfair, but it had some negative information, and it's information that deserves to be treated with the utmost confidentiality, but at the same time it is necessary.

We collected this information for two reasons. One that I would call the security reason for White House pass holders; the people like me, and all of us at this table who every day were in close proximity to the President, to the Vice President, to foreign leaders, to senior governmental officials. The Secret Service, the FBI, and Counsel's Office had a vested interest in making sure people in close proximity, whether these were the White House Chief of Staff

or a ground keeper, didn't pose a security risk to the President, to the Vice President, to foreign leaders.

The second reason was upholding the President's constitutional responsibility to nominate officers of the executive branch, people appointed to commissions and people appointed to the Federal judiciary. And the FBI files were fundamentally important parts of us determining that these people were suitable to hold those positions and to so represent to the U.S. Senate for those who had to be confirmed.

So it is a necessary process, and it is a process that I think in general has worked well, but you cannot minimize the importance of protecting the confidentiality of the information for the reasons that Dick Hauser explained.

If people are concerned, whether it's the individual filling out the forms or the neighbors or the friends or the teachers, or concerned that the information is going to be disseminated widely, treated cavalierly, used for political or other illicit purposes, then you're going to get information that's not candid, that's not forthcoming, or you're going to get just false information. That's not good for the White House, it's not good for the Government, it's not good for the Senate confirmation process, and that's what deserves to be protected.

Finally, I've read with interest the recommendations of the FBI in its report. I think, in the main, they are good and generally laudatory. Any system that's been in existence, as the FBI points out and the chairman points out in his remarks, for 30 years, can probably stand some improvement, some tweaking. It will result in additional paperwork. I don't think it would have changed our internal procedures very much.

Certainly, with respect to putting people into clearance and dealing with senior White House positions, those people were not name checks. FBI files were not requested except with the senior authority of the Counsel's Office. It would have involved—it would have involved more senior lawyer involvement in lower-level positions in the White House, people who were not going to be Senate confirmed, who were not Presidential appointees, or who were not going to get a commission from the President, and that's probably OK, that's going to result in some additional workload on Counsel's Office, but I would rather have a system that is maybe overly protective of information than to see what appears to have happened in this case.

Mr. Chairman, thank you for the opportunity. I'm happy to answer any questions.

[The prepared statement of Mr. Culvahouse follows:]

PREPARED STATEMENT OF A.B. CULVAHOUSE, FORMER WHITE HOUSE COUNSEL,
REAGAN ADMINISTRATION

Mr. Chairman and Members of the Committee, I am pleased to respond to your request that I provide information regarding the handling of Federal Bureau of Investigation background investigation reports by the White House during my tenure as Counsel to the President.

I had the privilege of serving as White House Counsel to Ronald Reagan for 22 months beginning in March 1987. President Reagan appointed me as Counsel to the President at the recommendation of the President's new White House Chief of Staff, Senator Howard Baker. I had previously served as Senator Baker's Chief Legislative

Assistant from 1973 to 1976, including the majority of time he served as Vice Chairman of the Senate Watergate Committee.

When I arrived at the White House, I found the existing process and procedure for clearing both White House pass holders and presidential appointees to be very professional, confidential and exacting. That professionalism and culture was a tribute to my predecessors and colleagues from recent Administrations from both political parties, who recognized the solemn legal and ethical obligations attendant to reviewing FBI background investigation files. Those files are very personal and very private; and I believe that a significant number of the FBI files which I received contained at least some negative or derogatory information because the background investigation process, in terms of the questions asked on standard Form 86 and by the FBI field interviewers, affirmatively encourage the furnishing of any information that arguably may call into question the individual's suitability for Presidential or White House appointment.

Only specific trusted White House staff were authorized to request or to review FBI background investigation files. The process was ably administered, in the first instance, by Jane Dannenhauer, Assistant to the Counsel to the President for Security. With respect to individuals being considered for White House passes, Ms. Dannenhauer would review the files and then discuss them with the Deputy Counsel to the President, who would discuss any serious issues or concerns with me.

With respect to FBI files relating to individuals being considered for Executive Branch nomination or appointment by the President, those files were reviewed by the Assistant to the Counsel to the President for Security and by the Deputy Counsel to the President. I, as Counsel to the President, was more likely to review the FBI files of potential Executive Branch nominees and appointees and would discuss with the Deputy Counsel any suitability or qualification issues or concerns that arose during the FBI background investigations of those individuals.

The only other person on my staff other than Ms. Dannenhauer and the Deputy Counsel to the President authorized to review any FBI files was a specific senior Associate Counsel to the President who was responsible for processing potential nominees to the Federal Judiciary. Because of the volume of material collected with respect to those nominations and the constitutionally sensitive obligations inherent in clearing nominees for lifetime appointments to the Federal Judiciary, that Associate Counsel would review those FBI files and would identify any issues or concerns therein for consideration by the Deputy Counsel and me during our review.

We did not share any of the information in the FBI files, whether relating to pass holders, potential appointees to Executive Branch positions or potential Judicial nominees, with any other person in the White House. This was true even in cases where other senior White House staff, with good reason and with the best of intentions, would inquire why a potential individual's clearance or nomination was put on hold by my office or had not been cleared by my office. I believe that my colleagues in the White House respected the integrity of the process, and I view that respect as a tribute to, in Judge Frech's words, the "honor and good faith" of those administering the process. (Principally Jane Dannenhauer and the Deputy Counsel to the President—in my case, the Deputy Counsels to the President with whom I served were Jay Stephens, who was a former Deputy Associate Attorney General and former Assistant United States Attorney, and Phil Brady, a former Associate Deputy Attorney General, former Acting Assistant Attorney General and former state deputy attorney general).

I also believe that the FBI liaison representatives with whom we consulted were equally professional and equally committed to a process that protected the confidentiality and privacy interests of those undergoing background investigations, while insuring the security of the President and providing necessary and important information regarding the suitability of potential appointees to Executive Branch positions.

I have read with interest the recommendations of the FBI for certain procedural reforms for handling background investigation files. I find those recommendations to be generally laudatory. There are very few things in government that cannot be improved after 30 years of experience. Certainly, the FBI, and the President, are entitled to assurances that FBI files, name checks and background investigations are requested for valid reasons and with the knowledge and authority of senior White House counsel. In the case of my tenure as Counsel to the President, I believe that these suggestions would not have necessitated any substantive change in our internal White House procedures with respect to clearing nominees and senior White House staff (since the Deputy Counsel or other senior Counsel's Office staff approved all such requests), but would have required more specificity in our transmittals to the FBI and perhaps more involvement of senior White House lawyers

with respect to requests to the FBI relating to pass holders with less senior positions.

In considering improvements, the paramount concern must be protecting the privacy interests of the individuals undergoing the background investigations and protecting the confidentiality of those files. The personnel clearance process can be only as good as the information provided for review. If individuals undergoing clearance, or sources interviewed by the FBI, are concerned that the information contained in FBI files will be shared with unauthorized individuals or treated cavalierly or disseminated widely, the FBI, the White House Counsel and ultimately the President will receive less candid information and perhaps even false information. Inadequate or false background information poses a risk to presidential security in the case of White House pass holders and makes it more difficult for Presidents and their senior advisors to evaluate the suitability of potential nominees. There are substantial and serious personal privacy issues at stake. There are also substantial and serious security and good government issues at stake. Both considerations require the best protection we can devise.

Thank you, Mr. Chairman, for the opportunity to convey these opening remarks.

Mr. CLINGER. Thank you very much, Mr. Culvahouse.

And now I am pleased to call on Ms. Jane Dannenhauer.

Ms. DANNENHAUER. Mr. Chairman, I am Jane Dannenhauer. I retired in 1993. I departed the White House staff on March 1, 1993. Until January 20 of that year, I held the position of Assistant to the Counsel to the President with the responsibility of directing the White House Security Office under the Counsel.

Our Security Office, with a staff of five, was responsible for providing, through Secret Service, clearance into the White House complex, all White House personnel and all other permanent staff of support offices, such as records management, correspondence, communications, telephone operators, and other offices that continue operation from administration to administration.

At the beginning of the new administration, the major thrust obviously is to clear all new White House personnel. They, along with the prospective Presidential appointees, have the very highest priority in our clearance process. Prior to January 20, 1981, the focus was on providing the names of the new staff members to Secret Service along with the FBI check information to allow admittance to the complex on the appointed day.

After June 20 and for several months thereafter, the White House Security Office was consumed with the collection of Standard Form 86, completed and signed, from the proposed Presidential appointees and new White House staff members for the FBI to complete the background investigations as expeditiously as possible.

Later in the first year of the new administration, as time permitted, we started the process of restructuring the files on support personnel. Although this project was not a priority, it was necessary to have the prior FBI reports of these current employees in order to implement the policy of updating background investigations on a 4-year cycle that was the policy at the time.

The reason this project was not a top priority was the fact that these employees had completed background investigations and held permanent passes. In this connection, we requested and received from the FBI copies of these previous reports. These reports were placed in our vault, and the dates of completion recorded in a log to determine when to begin the 4-year update in each case.

Each previous report received from the FBI was reviewed by me and sent to the Deputy Counsel and Counsel if an earlier update

might be indicated. In this manner, Counsel was aware of any possible problems with the existing personnel as well as with new personnel.

This update process continued throughout each administration of which I was a part and included only those employees currently working at the White House. During the years I was responsible for the Security Office, I was very fortunate to have dedicated and loyal staffs who were honored to serve the Presidency. There were no detailees from other agencies in the Security Office or volunteers without full background investigations.

In the Reagan and Bush administrations, my assistant was Nancy Gemmell, who worked with me for 12 years, and she was, as well as our other three assistants—were detail-oriented and meticulous with the handling and storage of these very private files. They and the staffs of previous years were well aware of the sensitivity of the files and the extreme caution needed to protect them.

I was privileged to serve in four administrations, starting in October 1972 with the Nixon administration. I was employed by the Ford, Reagan, and Bush administrations in the same capacity. Also, at the request of Mr. Robert Lipshutz, Counsel to President Carter, I and one of my assistants at the time remained for 2½ months to train the new staff member and await a new Director. By so doing, such assistance ensured a smooth transition.

I would be pleased to answer any questions.

Thank you, Mr. Chairman.

Mr. CLINGER. Thank you.

Mr. CLINGER. Ms. Gemmell?

Ms. GEMMELL. Good morning, Mr. Chairman and members of the committee. My name is Nancy Gemmell.

I began my Government career at the Department of the Treasury in 1968—

Mr. CLINGER. Please get a little closer to the microphone.

Ms. GEMMELL. Should I start over?

I began my Government service in 1968 at the Department of the Treasury. In 1969, I began my White House service.

I was privileged to have served in the Special Projects Office, for many years worked in the President's Appointments and Scheduling Office, and also, in 1981 until my retirement on August 13, 1993, in the White House Security Office.

My Government service began during the Johnson administration, spanning the Nixon administration, the Ford administration, the Carter administration, two terms of the Reagan administration, the Bush administration, and again, until August 13, 1993, the Clinton administration. It has been my honor to have served these administrations, and I will be pleased to take your questions.

Thank you.

Mr. CLINGER. Thank you very much. Thank all of the panel for your very helpful testimony.

We will now proceed under the 5-minute rule, and I will lead off with the first series of questions, if I may.

To me—this is sort of addressed to the panel in general, but to me one of the real problems here is, who is in charge of this office? Who is put in charge of this office? And there was—apparently, in this case, political operatives were in charge of the office.

So I would ask you, Mr. Gray, Mr. Culvahouse, Mr. Hauser, give us your sense of what the qualifications should be for a person that would be in charge of this office. What kind of background would be, in your view, essential to be the administrator of this office?

Mr. GRAY. Someone with great precision, attention to detail, management skills, great patience, great, great discretion. One could say if you did a description of Jane Dannenhauer, you would have a good profile of the person you wanted. She's not, I'm sure, unique, but she did a fantastic job for us.

It is exceedingly difficult to manage this mountain of paper without letting any of it leak out and at the same time not having, if you will, the fun of being able to act substantively on the material that you are managing.

The decisions, based on the process that she so well managed or such a person would manage, rests with the White House counsel.

Mr. CLINGER. Now, one of the elements that was raised in the FBI report by Mr. Freeh was that the system that had been in place for 30 years, literally since Lyndon Johnson's time, had worked pretty well. It relied upon—the initial thing that prompted the return of an FBI file to the White House was a form sent out over the name of the White House counsel. But he also indicated that the system really relied upon the honor and integrity of the people making those requests.

In your experience, who should have the authority—Mr. Nussbaum didn't apparently know who was doing this in his name. He disclaimed any knowledge of these forms being sent out. Doesn't there need to be somebody who is aware of who is requesting these forms and under what criteria these forms are being requested?

Mr. GRAY. Let me see if I can answer this, and Dick ought to—because A.B., I think, was not there at the beginning of an administration, which may make his situation slightly different.

But if you look at it from the very, very beginning, nothing would get triggered, nothing would get triggered, unless the subject of an inquiry would have filled out various forms and thereby consented to the process.

In our case, White House personnel would come to me with, "All right, this is who we want to put into clearance for XYZ job," and then we would kick it downstairs, and then the process would unfold.

The only time, I think, generally speaking, where something would get initiated without my having triggered it in some fashion was with basically the permanent White House staff or replacement for secretaries, people who weren't senior White House staff.

There, of course, the permanent White House staff have already been cleared. Then they undergo updates every 4 years and would be on notice that once an old administration went out, taking their files with them, that they had every reason to expect that the files would be restored once the new administration got its act in place.

Mr. CLINGER. Mr. Culvahouse?

Mr. Hauser?

Mr. HAUSER. My experience is the same as that of Mr. Gray's. At the beginning of an administration, it's really through—the process is initiated through the Form 86. Waivers are obtained from individuals. These are people who are applying for jobs, un-

derstand that a background investigation will be done as part of the clearance process and the issuance of a pass. So there is nothing mysterious about that; their consent is obtained.

Mr. CLINGER. Mr. Culvahouse?

Mr. CULVAHOUSE. Mr. Chairman, I strain to think of a situation where we ever needed or thought we needed to look at a file of someone whose background check had been done during a prior administration without that person's express written consent, and, really, the only time we would have liked to have done it, frankly, was when we were building a short list for Supreme Court nominations.

We had a number of sitting Federal judges who were on our short list. We didn't—would have preferred not to have had to have gone to those judges and get their consent, just because of leaks. We were trying to fill Justice Powell's seat under a magnifying glass but ultimately concluded, after consulting with the Justice Department and the FBI, that we had to go get Judge Kennedy's consent.

And so that was our culture, the culture that we grew up in and Dick Hauser helped develop. You never ever requested that information without the knowledge and consent of the individual involved.

Mr. CLINGER. Thank you.

Mr. Culvahouse, you referred to the Standard Form 86 and noted the very sensitive information it requested: Your military history, if you had any mental problems, drug problems, drinking problems, et cetera. It is a very long thing, and I would ask unanimous consent that this form would be made a part of the record at this time.

[The information referred to follows:]

Standard Form 86
Revised September 1995
U.S. Office of Personnel Management
5 CFR Parts 731, 732, and 736

Form approved:
O M B No. 3208-0007
NSN 7540-00-834-4036
86-1111

Questionnaire for National Security Positions

Follow instructions fully or we cannot process your form. Be sure to sign and date the certification statement on page 9 and the release on page 10. If you have any questions, call the office that gave you the form.

Purpose of this Form

The U.S. Government conducts background investigations and reinvestigations to establish that military personnel, applicants for or incumbents in national security positions, either employed by the Government or working for Government contractors, licensees, certificate holders, and grantees, are eligible for a required security clearance. Information from this form is used primarily as the basis for investigation for access to classified information or special nuclear information or material. Complete this form only after a conditional offer of employment has been made for a position requiring a security clearance.

Giving us the information we ask for is voluntary. However, we may not be able to complete your investigation, or complete it in a timely manner, if you don't give us each item of information we request. This may affect your placement or security clearance prospects.

Authority to Request this Information

Depending upon the purpose of your investigation, the U.S. Government is authorized to ask for this information under Executive Orders 10450, 10865, 12333, and 12356; sections 3301 and 9101 of title 5, U.S. Code; sections 2165 and 2201 of title 42, U.S. Code; sections 781 to 887 of title 50, U.S. Code; and parts 5, 732, and 736 of Title 5, Code of Federal Regulations.

Your Social Security number is needed to keep records accurate, because other people may have the same name and birth date. Executive Order 9397 also asks Federal agencies to use this number to help identify individuals in agency records.

The Investigative Process

Background investigations for national security positions are conducted to develop information to show whether you are reliable, trustworthy, of good conduct and character, and loyal to the United States. The information that you provide on this form is confirmed during the investigation. Investigation may extend beyond the time covered by this form when necessary to resolve issues. Your current employer must be contacted as part of the investigation, even if you have previously indicated on applications or other forms that you do not want this.

In addition to the questions on this form, inquiry also is made about a person's adherence to security requirements, honesty and integrity, vulnerability to exploitation or coercion, falsification, misrepresentation, and any other behavior, activities, or associations that tend to show the person is not reliable, trustworthy, or loyal.

Your Personal Interview

Some investigations will include an interview with you as a normal part of the investigative process. This provides you the opportunity to update, clarify, and explain information on your form more completely, which often helps to complete your investigation faster. It is important that the interview be conducted as soon as possible after you are contacted. Postponements will delay the processing of your investigation, and declining to be interviewed may result in your investigation being delayed or canceled.

You will be asked to bring identification with your picture on it, such as a valid State driver's license, to the interview. There are other documents you may be asked to bring to verify your identity as well. These include documentation of any legal name change, Social Security card, and/or birth certificate.

You may also be asked to bring documents about information you provided on the form or other matters requiring specific attention. These matters include alien registration, delinquent loans or taxes, bankruptcy, judgments, liens, or other financial obligations, agreements involving child custody or support, alimony or property settlements, arrests, convictions, probation, and/or parole.

Organization of this Form

This form has two parts. Part 1 asks for background information, including where you have lived, gone to school, and worked. Part 2 asks about your activities and such matters as firings from a job, criminal history record, use of illegal drugs, and abuse of alcohol.

In answering all questions on this form, keep in mind that your answers are considered together with the information obtained in the investigation to reach an appropriate adjudication.

Instructions for Completing this Form

1. Follow the instructions given to you by the person who gave you the form and any other clarifying instructions furnished by that person to assist you in completion of the form. Find out how many copies of the form you are to turn in. You must sign and date, in black ink, the original and each copy you submit. You should retain a copy of the completed form for your records.
2. Type or legibly print your answers in black ink (if your form is not legible, it will not be accepted). You may also be asked to submit your form in an approved electronic format.
3. All questions on this form must be answered. If no response is necessary or applicable, indicate this on the form (for example, enter "None" or "N/A"). If you find that you cannot report an exact date, approximate or estimate the date to the best of your ability and indicate this by marking "APPROX." or "EST."
4. Any changes that you make to this form after you sign it must be initialed and dated by you. Under certain limited circumstances, agencies may modify the form consistent with your intent.
5. You must use the State codes (abbreviations) listed on the back of this page when you fill out this form. Do not abbreviate the names of cities or foreign countries.
6. The 5-digit postal ZIP codes are needed to speed the processing of your investigation. The office that provided the form will assist you in completing the ZIP codes.
7. All telephone numbers must include area codes.
8. All dates provided on this form must be in Month/Day/Year or Month/Year format. Use numbers (1-12) to indicate months. For example, June 8, 1978, should be shown as 6/8/78.
9. Whenever "City (Country)" is shown in an address block, also provide in that block the name of the country when the address is outside the United States.
10. If you need additional space to list your residences or employments/self-employments/unemployments or education, you should use a continuation sheet, SF 86A. If additional space is needed to answer other items, use a blank piece of paper. Each blank piece of paper you use must contain your name and Social Security Number at the top of the page.

Final Determination on Your Eligibility

Final determination on your eligibility for access to classified information is the responsibility of the Federal agency that requested your investigation. You may be provided the opportunity personally to explain, refute, or clarify any information before a final decision is made.

Penalties for Inaccurate or False Statements

The U.S. Criminal Code (title 18, section 1001) provides that knowingly falsifying or concealing a material fact is a felony which may result in fines of up to \$10,000, and/or 5 years imprisonment, or both. In addition, Federal agencies generally fire, do not grant a security clearance, or disqualify individuals who have materially and deliberately falsified these forms, and this remains a part of the permanent record for future placements. Because the position for which you are being considered is a sensitive one, your trustworthiness is a very important consideration in deciding your eligibility for a security clearance. Your prospects of placement or security clearance

are better if you answer all questions truthfully and completely. You will have adequate opportunity to explain any information you give us on the form and to make your comments part of the record.

Disclosure of Information

The information you give us is for the purpose of investigating you for a national security position; we will protect it from unauthorized disclosure. The collection, maintenance, and disclosure of background investigative information is governed by the Privacy Act. The agency which requested the investigation and the agency which conducted the investigation have published notices in the Federal Register describing the systems of records in which your records will be maintained. You may obtain copies of the relevant notices from the person who gave you this form. The information on this form, and information we collect during an investigation may be disclosed without your consent as permitted by the Privacy Act (5 USC 552a (b)) and as follows:

PRIVACY ACT ROUTINE USES

- 1. To the Department of Justice when: (a) the agency or any component thereof, or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.
- 2. To a court or adjudicative body in a proceeding when: (a) the agency or any component thereof; or (b) any employee of the agency in his or her official capacity, or (c) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (d) the United States Government, is a party to litigation or has interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.
- 3. Except as noted in Question 24, when a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, particular program statute, regulation, rule, or order issued pursuant thereto, the relevant records may be disclosed to the appropriate Federal, foreign, State, local, tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order.
- 4. To any source or potential source from which information is requested in the course of an investigation concerning the hiring or retention of an employee or other personnel action, or the issuing or retention of a security clearance, contract, grant, license, or other benefit, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.
- 5. To a Federal, State, local, foreign, tribal, or other public authority the fact that this system of records contains information relevant to the retention of an employee, or the retention of a security clearance, contract, license, grant, or other benefit. The other agency or licensing organization may then make a request supported by written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.
- 6. To contractors, grantees, experts, consultants, or volunteers when necessary to perform a function or service related to this record for which they have been engaged. Such recipients shall be required to comply with the Privacy Act of 1974, as amended.
- 7. To the news media or the general public, factual information the disclosure of which would be in the public interest and which would not constitute an unwarranted invasion of personal privacy.
- 8. To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.
- 9. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.
- 10. To the National Archives and Records Administration for records management inspections conducted under 44 USC 2904 and 2906.
- 11. To the Office of Management and Budget when necessary to the review of private relief legislation.

STATE CODES (ABBREVIATIONS)

Alabama	AL	Hawaii	HI	Massachusetts	MA	New Mexico	NM	South Dakota	SD
Alaska	AK	Idaho	ID	Michigan	MI	New York	NY	Tennessee	TN
Arizona	AZ	Illinois	IL	Minnesota	MN	North Carolina	NC	Texas	TX
Arkansas	AR	Indiana	IN	Mississippi	MS	North Dakota	ND	Utah	UT
California	CA	Iowa	IA	Missouri	MO	Ohio	OH	Vermont	VT
Colorado	CO	Kansas	KS	Montana	MT	Oklahoma	OK	Virginia	VA
Connecticut	CT	Kentucky	KY	Nebraska	NE	Oregon	OR	Washington	WA
Delaware	DE	Louisiana	LA	Nevada	NV	Pennsylvania	PA	West Virginia	WV
Florida	FL	Maine	ME	New Hampshire	NH	Rhode Island	RI	Wisconsin	WI
Georgia	GA	Maryland	MD	New Jersey	NJ	South Carolina	SC	Wyoming	WY
American Samoa	AS	Dist. of Columbia	DC	Guam	GU	Northern Marianas	CM	Puerto Rico	PR
Trust Territory	TT	Virgin Islands	VI						

PUBLIC BURDEN INFORMATION

Public burden reporting for this collection of information is estimated to average 90 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E St N.W., Room CHP-500, Washington, D.C. 20415. Do not send your completed form to this address.

Standard Form 86
Revised September 1995
U.S. Office of Personnel Management
5 CFR Parts 731, 732, and 736

QUESTIONNAIRE FOR NATIONAL SECURITY POSITIONS

Form approved:
O M.B. No. 3206-0007
NSN 7540-00-634-4036
86-111

Part 1		Investigating Agency Use Only	Codes	Case Number
Agency Use Only (Complete Items A through P using instructions provided by the Investigating agency).				
A Type of Investigation	B Extra Coverage	C Sensitivity Level	D Access	E Nature of Action Code
F Date of Action	Month	Day	Year	
G Geographic Location	H Position Code	I Position Title		
J SON	K Location of Office: Personnel Folder	None NPRC AI SON	Other Address	
L SOI	M Location of Security Folder	None AI SOI NPI	Other Address	
N OPAC-ALC Number	O Accounting Data and/or Agency Case Number			
P Requesting Official	Name and Title	Signature	Telephone Number	Date
Persons completing this form should begin with the questions below.				
1 FULL NAME • If you have only initials in your name, use them and state (IO). • If you are a "Jr.," "Sr.," "II," etc., enter this in the box after your middle name. • If you have no middle name, enter "NMN."				2 DATE OF BIRTH
Last Name		First Name	Middle Name	Jr., II, etc. Month Day Year
3 PLACE OF BIRTH • Use the two letter code for the State City County State Country (if not in the United States)			4 SOCIAL SECURITY NUMBER	
5 OTHER NAMES USED Give other names you used and the period of time you used them (for example: your maiden name, name[s] by a former marriage, former name[s], alias[es], or nickname[s]). If the other name is your maiden name, put "nee" in front of it.				
#1 Name	Month/Year	Month/Year	#3 Name	Month/Year
	To			To
#2 Name	Month/Year	Month/Year	#4 Name	Month/Year
	To			To
6 OTHER IDENTIFYING INFORMATION	Height (feet and inches)	Weight (pounds)	Hair Color	Eye Color
				Sex (mark one box) ☐ Female ☐ Male
7 TELEPHONE NUMBERS	Work (include Area Code and extension) () Day () Night	Home (include Area Code) () Day () Night		
8 CITIZENSHIP	☐ I am a U.S. citizen or national by birth in the U.S. or U.S. territory/possession — Answer Items b and d ☐ I am a U.S. citizen, but I was NOT born in the U.S. — Answer Items b, c, and d ☐ I am not a U.S. citizen — Answer Items b and e			b Your Mother's Maiden Name
c UNITED STATES CITIZENSHIP If you are a U.S. Citizen, but were not born in the U.S., provide information about one or more of the following proofs of your citizenship.				
Naturalization Certificate (Where were you naturalized?)				
Court	City	State	Certificate Number	Month/Day/Year Issued
Citizenship Certificate (Where was the certificate issued?)				
City	State	Certificate Number	Month/Day/Year Issued	
State Department Form 240 - Report of Birth Abroad of a Citizen of the United States				
Give the date the form was prepared and give an explanation if needed.	Month/Day/Year	Explanation		
U.S. Passport				
This may be either a current or previous U.S. Passport	Passport Number	Month/Day/Year Issued		
d DUAL CITIZENSHIP If you are (or were) a dual citizen of the United States and another country, provide the name of that country in the space to the right				
Country				
e ALIEN If you are an alien, provide the following information:				
Place You Entered the United States	City	State	Date You Entered U.S. Month Day Year	Alien Registration Number
				Country(ies) of Citizenship

9 WHERE YOU HAVE LIVED

List the places where you have lived, beginning with the most recent (#1) and working back 7 years. All periods must be accounted for in your list. Be sure to indicate the actual physical location of your residence: do not use a post office box as an address, do not list a permanent address when you were actually living at a school address, etc. Be sure to specify your location as closely as possible: for example, do not list only your base or ship, list your barracks number or home port. You may omit temporary military duty locations under 90 days (list your permanent address instead), and you should use your APO/FPO address if you lived overseas.

For any address in the last 5 years, list a person who knew you at that address, and who preferably still lives in that area (do not list people for residences completely outside this 5-year period, and do not list your spouse, former spouses, or other relatives). Also for addresses in the last five years, if the address is "General Delivery," a Rural or Star Route, or may be difficult to locate, provide directions for locating the residence on an attached continuation sheet.

Month/Year	Month/Year	Street Address	Apt. #	City (Country)	State	ZIP Code
#1	To Present					
Name of Person Who Knows You		Street Address	Apt. #	City (Country)	State	ZIP Code
						Telephone Number ()
Month/Year	Month/Year	Street Address	Apt. #	City (Country)	State	ZIP Code
#2	To					
Name of Person Who Knew You		Street Address	Apt. #	City (Country)	State	ZIP Code
						Telephone Number ()
Month/Year	Month/Year	Street Address	Apt. #	City (Country)	State	ZIP Code
#3	To					
Name of Person Who Knew You		Street Address	Apt. #	City (Country)	State	ZIP Code
						Telephone Number ()
Month/Year	Month/Year	Street Address	Apt. #	City (Country)	State	ZIP Code
#4	To					
Name of Person Who Knew You		Street Address	Apt. #	City (Country)	State	ZIP Code
						Telephone Number ()
Month/Year	Month/Year	Street Address	Apt. #	City (Country)	State	ZIP Code
#5	To					
Name of Person Who Knew You		Street Address	Apt. #	City (Country)	State	ZIP Code
						Telephone Number ()

10 WHERE YOU WENT TO SCHOOL

List the schools you have attended, beyond Junior High School, beginning with the most recent (#1) and working back 7 years. List College or University degrees and the dates they were received. If all of your education occurred more than 7 years ago, list your most recent education beyond high school, no matter when that education occurred.

- Use one of the following codes in the "Code" block:
1 - High School 2 - College/University/Military College 3 - Vocational/Technical/Trade School
- For schools you attended in the past 3 years, list a person who knew you at school (an instructor, student, etc.). Do not list people for education completely outside this 3-year period.
- For correspondence schools and extension classes, provide the address where the records are maintained.

Month/Year	Month/Year	Code	Name of School	Degree/Diploma/Other	Month/Year Awarded
#1	To				
Street Address and City (Country) of School					State ZIP Code
Name of Person Who Knew You			Street Address	Apt. #	City (Country) State ZIP Code
					Telephone Number ()
Month/Year	Month/Year	Code	Name of School	Degree/Diploma/Other	Month/Year Awarded
#2	To				
Street Address and City (Country) of School					State ZIP Code
Name of Person Who Knew You			Street Address	Apt. #	City (Country) State ZIP Code
					Telephone Number ()
Month/Year	Month/Year	Code	Name of School	Degree/Diploma/Other	Month/Year Awarded
#3	To				
Street Address and City (Country) of School					State ZIP Code
Name of Person Who Knew You			Street Address	Apt. #	City (Country) State ZIP Code
					Telephone Number ()

Enter your Social Security Number before going to the next page →

11 YOUR EMPLOYMENT ACTIVITIES

List your employment activities, beginning with the present (#1) and working back 7 years. You should list all full-time work, part-time work, military service, temporary military duty locations over 90 days, self-employment, other paid work, and all periods of unemployment. The entire 7-year period must be accounted for without breaks, but you need not list employments before your 18th birthday. **EXCEPTION:** Show all Federal civilian service, whether it occurred within the last 7 years or not.

- **Code.** Use one of the codes listed below to identify the type of employment:

1 - Active military duty stations	5 - State Government (Non-Federal employment)	7 - Unemployment (Include name of person who can verify)	9 - Other
2 - National Guard/Reserve	6 - Self-employment (Include business name and/or name of person who can verify)	8 - Federal Contractor (List Contractor, not Federal agency)	
3 - U.S.P.H.S. Commissioned Corps			
4 - Other Federal employment			
- **Employer/Verifier Name.** List the business name of your employer or the name of the person who can verify your self-employment or unemployment in this block. If military service is being listed, include your duty location or home port here as well as your branch of service. You should provide separate listings to reflect changes in your military duty locations or home ports.
- **Previous Periods of Activity.** Complete these lines if you worked for an employer on more than one occasion at the same location. After entering the most recent period of employment in the initial numbered block, provide previous periods of employment at the same location on the additional lines provided. For example, if you worked at XY Plumbing in Denver, CO, during 3 separate periods of time, you would enter dates and information concerning the most recent period of employment first, and provide dates, position titles, and supervisors for the two previous periods of employment on the lines below that information.

Month/Year	Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank		
#1						
To Present						
Employer's/Verifier's Street Address			City (Country)	State	ZIP Code	Telephone Number ()
Street Address of Job Location (if different than Employer's Address)			City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)			City (Country)	State	ZIP Code	Telephone Number ()
PREVIOUS PERIODS OF ACTIVITY (Block #1)	Month/Year	Month/Year	Position Title	Supervisor		
	To					
	Month/Year	Month/Year	Position Title	Supervisor		
	To					
Month/Year	Month/Year		Position Title	Supervisor		
To						
#2						
To						
Employer's/Verifier's Street Address			City (Country)	State	ZIP Code	Telephone Number ()
Street Address of Job Location (if different than Employer's Address)			City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)			City (Country)	State	ZIP Code	Telephone Number ()
PREVIOUS PERIODS OF ACTIVITY (Block #2)	Month/Year	Month/Year	Position Title	Supervisor		
	To					
	Month/Year	Month/Year	Position Title	Supervisor		
	To					
Month/Year	Month/Year		Position Title	Supervisor		
To						
#3						
To						
Employer's/Verifier's Street Address			City (Country)	State	ZIP Code	Telephone Number ()
Street Address of Job Location (if different than Employer's Address)			City (Country)	State	ZIP Code	Telephone Number ()
Supervisor's Name & Street Address (if different than Job Location)			City (Country)	State	ZIP Code	Telephone Number ()
PREVIOUS PERIODS OF ACTIVITY (Block #3)	Month/Year	Month/Year	Position Title	Supervisor		
	To					
	Month/Year	Month/Year	Position Title	Supervisor		
	To					
Month/Year	Month/Year		Position Title	Supervisor		
To						

Enter your Social Security Number before going to the next page →

YOUR EMPLOYMENT ACTIVITIES (CONTINUED)

Month/Year	Month/Year	Code	Employer/Verifier Name/Military Duty Location	Your Position Title/Military Rank		
#4 To Employer's/Verifier's Street Address City (Country) State ZIP Code Telephone Number ()						
Street Address of Job Location (if different than Employer's Address) City (Country) State ZIP Code Telephone Number ()						
Supervisor's Name & Street Address (if different than Job Location) City (Country) State ZIP Code Telephone Number ()						
PREVIOUS PERIODS OF ACTIVITY (Block #4)	Month/Year	Month/Year	Position Title	Supervisor		
	To					
	Month/Year	Month/Year	Position Title	Supervisor		
	To					
Month/Year	Month/Year	Position Title	Supervisor			
To						
#5 To Employer's/Verifier's Street Address City (Country) State ZIP Code Telephone Number ()						
Street Address of Job Location (if different than Employer's Address) City (Country) State ZIP Code Telephone Number ()						
Supervisor's Name & Street Address (if different than Job Location) City (Country) State ZIP Code Telephone Number ()						
PREVIOUS PERIODS OF ACTIVITY (Block #5)	Month/Year	Month/Year	Position Title	Supervisor		
	To					
	Month/Year	Month/Year	Position Title	Supervisor		
	To					
Month/Year	Month/Year	Position Title	Supervisor			
To						
#6 To Employer's/Verifier's Street Address City (Country) State ZIP Code Telephone Number ()						
Street Address of Job Location (if different than Employer's Address) City (Country) State ZIP Code Telephone Number ()						
Supervisor's Name & Street Address (if different than Job Location) City (Country) State ZIP Code Telephone Number ()						
PREVIOUS PERIODS OF ACTIVITY (Block #6)	Month/Year	Month/Year	Position Title	Supervisor		
	To					
	Month/Year	Month/Year	Position Title	Supervisor		
	To					
Month/Year	Month/Year	Position Title	Supervisor			
To						

12 PEOPLE WHO KNOW YOU WELL

List **three** people who know you well and live in the United States. They should be good friends, peers, colleagues, college roommates, etc., whose combined association with you covers as well as possible the last 7 years. Do not list your spouse, former spouses, or other relatives, and try not to list anyone who is listed elsewhere on this form.

#1	Name	Dates Known Month/Year To Month/Year	Telephone Number () Day () () Night ()
Home or Work Address		City (Country)	State ZIP Code
#2	Name	Dates Known Month/Year To Month/Year	Telephone Number () Day () () Night ()
Home or Work Address		City (Country)	State ZIP Code
#3	Name	Dates Known Month/Year To Month/Year	Telephone Number () Day () () Night ()
Home or Work Address		City (Country)	State ZIP Code

Enter your Social Security Number before going to the next page

13 YOUR SPOUSE

Mark one box to show your current marital status and provide information about your spouse(s) in items a, and/or b.

- | | | |
|--|--|---------------------------------------|
| ☐ 1 - Never married | ☐ 3 - Separated | ☐ 5 - Divorced |
| ☐ 2 - Married | ☐ 4 - Legally Separated | ☐ 6 - Widowed |

a **Current Spouse** Complete the following about your current spouse only.

Full Name	Date of Birth	Place of Birth (include country if outside the U.S.)	Social Security Number
Other Names Used (Specify maiden name, names by other marriages, etc., and show dates used for each name)			Country(ies) of Citizenship
Date Married	Place Married (include country if outside the U.S.)		State
If Separated, Date of Separation	If Legally Separated, Where is the Record Located? City (Country)		State
Address of Current Spouse, if different than your current address (Street, city, and country if outside the U.S.)			State ZIP Code

(b) Former Spouse(s) Complete the following about your former spouse(s), use blank sheets if needed.

Full Name	Date of Birth	Place of Birth <i>(Include country if outside the U.S.)</i>	State
Country(ies) of Citizenship	Date Married	Place Married <i>(Include country if outside the U.S.)</i>	State
Check One, Then Give Date ☐ Divorced ☐ Widowed	Month/Day/Year	If Divorced, Where is the Record Located? City (Country)	State
Address of Former Spouse <i>(Street, city, and country if outside the U.S.)</i>		State	ZIP Code Telephone Number ()

14 YOUR RELATIVES AND ASSOCIATES

Give the full name, correct code, and other requested information for each of your relatives and associates, living or dead, specified below.

- | | | | | |
|------------------------------|-----------------------------------|-------------------|--------------------|--------------------------------------|
| 1 - Mother (<i>first</i>) | 5 - Foster parent | 9 - Sister | 13 - Half-sister | 17 - Other Relative* |
| 2 - Father (<i>second</i>) | 6 - Child (<i>adopted also</i>) | 10 - Stepbrother | 14 - Father-in-law | 18 - Associate* |
| 3 - Stepmother | 7 - Stepchild | 11 - Stepsister | 15 - Mother-in-law | |
| 4 - Stepfather | 8 - Brother | 12 - Half-brother | 16 - Guardian | 19 - Adult Currently Living With You |

* Code 17 (Other Relative)-include only foreign national relatives not listed in 1-16 with whom you or your spouse are bound by affection, obligation, or close and continuing contact. Code 18 (Associates) - include only foreign national associates with whom you or your spouse are bound by affection, obligation, or close and continuing contact.

[illegible]

Enter your Social Security Number before going to the next page

15 CITIZENSHIP OF YOUR RELATIVES AND ASSOCIATES

If your mother, father, sister, brother, child, or current spouse or person with whom you have a spouse-like relationship is a U.S. citizen by other than birth, or an alien residing in the U.S., provide the nature of the individual's relationship to you (Spouse, Spouse-like, Mother, etc.), and the individual's name and date of birth on the first line (this information is needed to pair it accurately with information in items 13 and 14).

On the second line, provide the individual's naturalization certificate or alien registration number and use one of the document codes below to identify proof of citizenship status. Provide additional information on that line as requested.

1. **Naturalization Certificate:** Provide the date issued and the location where the person was naturalized (Court, City and State)
2. **Citizenship Certificate:** Provide the date and location issued (City and State)

3. **Alien Registration:** Provide the date and place where the person entered the U.S. (City and State).
4. **Other:** Provide an explanation in the "Additional Information" block.

Association	Name	Date of Birth (Month/Day/Year)
#1		
Certificate/Registration #	Document Code	Additional Information
#2		
Certificate/Registration #	Document Code	Additional Information

16 YOUR MILITARY HISTORY

a Have you served in the United States military?

b Have you served in the United States Merchant Marine?

Yes	No

List all of your military service below, including service in Reserve, National Guard, and U.S. Merchant Marine. Start with the most recent period of service (#1) and work backward. If you had a break in service, each separate period should be listed.

- **Code.** Use one of the codes listed below to identify your branch of service:

1 - Air Force 2 - Army 3 - Navy 4 - Marine Corps 5 - Coast Guard 6 - Merchant Marine 7 - National Guard

- **O/E.** Mark "O" block for Officer or "E" block for Enlisted.

- **Status.** "X" the appropriate block for the status of your service during the time that you served. If your service was in the National Guard, do not use an "X"; use the two-letter code for the state to mark the block.

- **Country.** If your service was with other than the U.S. Armed Forces, identify the country for which you served.

Month/Year	Code	Service/Certificate #	O	E	Active	Active Reserve	Inactive Reserve	National Guard (State)	Country
To									
To									

17 YOUR FOREIGN ACTIVITIES

a Do you have any foreign property, business connections, or financial interests?

b Are you now or have you ever been employed by or acted as a consultant for a foreign government, firm, or agency?

c Have you ever had any contact with a foreign government, its establishments (embassies or consulates), or its representatives, whether inside or outside the U.S., other than on official U.S. Government business? (Does not include routine visa applications and border crossing contacts.)

d In the last 7 years, have you had an active passport that was issued by a foreign government?

Yes	No

If you answered "Yes" to a, b, c, or d above, explain in the space below: provide inclusive dates, names of firms and/or governments involved, and an explanation of your involvement.

Month/Year	Month/Year	Firm and/or Government	Explanation
To			
To			

18 FOREIGN COUNTRIES YOU HAVE VISITED

List foreign countries you have visited, except on travel under official Government orders, beginning with the most current (#1) and working back 7 years. (Travel as a dependent or contractor must be listed.)

- Use one of these codes to indicate the purpose of your visit: 1 - Business 2 - Pleasure 3 - Education 4 - Other

- Include short trips to Canada or Mexico. If you have lived near a border and have made short (one day or less) trips to the neighboring country, you do not need to list each trip. Instead, provide the time period, the code, the country, and a note ("Many Short Trips").

- Do not repeat travel covered in items 9, 10, or 11.

Month/Year	Month/Year	Code	Country	Month/Year	Month/Year	Code	Country
#1	To			#3	To		
#2	To			#4	To		

This concludes Part 1 of this form. If you have used Page 9, continuation sheets, or blank sheets to complete any of the questions in Part 1, give the number for those questions in the space to the right.

Enter your Social Security Number before going to the next page

Standard Form 86
Revised September 1995
U.S. Office of Personnel Management
5 CFR Parts 731, 732, and 736

QUESTIONNAIRE FOR NATIONAL SECURITY POSITIONS

Form approved:
O.M.B. No. 3206-0007
NSN 7540-00-634-4036
86-111

Part 2

OFFICIAL
USE
ONLY

19	YOUR MILITARY RECORD	Yes	No		
Have you ever received other than an honorable discharge from the military? If "Yes," provide the date of discharge and type of discharge below.					
<table style="width: 100%; border: none;"> <tr> <td style="width: 20%; border-bottom: 1px solid black;">Month/Year</td> <td style="border-bottom: 1px solid black;">Type of Discharge</td> </tr> </table>				Month/Year	Type of Discharge
Month/Year	Type of Discharge				

20	YOUR SELECTIVE SERVICE RECORD	Yes	No		
a Are you a male born after December 31, 1959? If "No," go to 21. If "Yes," go to b.					
b Have you registered with the Selective Service System? If "Yes," provide your registration number. If "No," show the reason for your legal exemption below.					
<table style="width: 100%; border: none;"> <tr> <td style="width: 30%; border-bottom: 1px solid black;">Registration Number</td> <td style="border-bottom: 1px solid black;">Legal Exemption Explanation</td> </tr> </table>				Registration Number	Legal Exemption Explanation
Registration Number	Legal Exemption Explanation				

21	YOUR MEDICAL RECORD	Yes	No															
In the last 7 years, have you consulted with a mental health professional (psychiatrist, psychologist, counselor, etc.) or have you consulted with another health care provider about a mental health related condition?																		
If you answered "Yes," provide the dates of treatment and the name and address of the therapist or doctor below, unless the consultation(s) involved only marital, family, or grief counseling, not related to violence by you.																		
<table style="width: 100%; border: none;"> <tr> <td style="width: 15%; border-bottom: 1px solid black;">Month/Year</td> <td style="width: 15%; border-bottom: 1px solid black;">Month/Year</td> <td style="width: 55%; border-bottom: 1px solid black;">Name/Address of Therapist or Doctor</td> <td style="width: 10%; border-bottom: 1px solid black;">State</td> <td style="width: 5%; border-bottom: 1px solid black;">ZIP Code</td> </tr> <tr> <td colspan="5" style="text-align: center; border-top: 1px solid black;">To</td> </tr> <tr> <td colspan="5" style="text-align: center; border-top: 1px solid black;">To</td> </tr> </table>				Month/Year	Month/Year	Name/Address of Therapist or Doctor	State	ZIP Code	To					To				
Month/Year	Month/Year	Name/Address of Therapist or Doctor	State	ZIP Code														
To																		
To																		

22	YOUR EMPLOYMENT RECORD	Yes	No												
Has any of the following happened to you in the last 7 years? If "Yes," begin with the most recent occurrence and go backward, providing date fired, quit, or left, and other information requested.															
Use the following codes and explain the reason your employment was ended: 1 - Fired from a job 3 - Left a job by mutual agreement following allegations of misconduct 5 - Left a job for other reasons 2 - Quit a job after being told you'd be fired 4 - Left a job by mutual agreement following allegations of unsatisfactory performance under unfavorable circumstances															
<table style="width: 100%; border: none;"> <tr> <td style="width: 10%; border-bottom: 1px solid black;">Month/Year</td> <td style="width: 5%; border-bottom: 1px solid black;">Code</td> <td style="width: 35%; border-bottom: 1px solid black;">Specify Reason</td> <td style="width: 30%; border-bottom: 1px solid black;">Employer's Name and Address (Include city/country if outside U.S.)</td> <td style="width: 10%; border-bottom: 1px solid black;">State</td> <td style="width: 10%; border-bottom: 1px solid black;">ZIP Code</td> </tr> <tr> <td colspan="6" style="height: 40px;"></td> </tr> </table>				Month/Year	Code	Specify Reason	Employer's Name and Address (Include city/country if outside U.S.)	State	ZIP Code						
Month/Year	Code	Specify Reason	Employer's Name and Address (Include city/country if outside U.S.)	State	ZIP Code										

23	YOUR POLICE RECORD	Yes	No												
For this item, report information regardless of whether the record in your case has been "sealed" or otherwise stricken from the court record. The single exception to this requirement is for certain convictions under the Federal Controlled Substances Act for which the court issued an expungement order under the authority of 21 U.S.C. 844 or 18 U.S.C. 3607.															
a Have you ever been charged with or convicted of any felony offense? (Include those under Uniform Code of Military Justice)															
b Have you ever been charged with or convicted of a firearms or explosives offense?															
c Are there currently any charges pending against you for any criminal offense?															
d Have you ever been charged with or convicted of any offense(s) related to alcohol or drugs?															
e In the last 7 years, have you been subject to court martial or other disciplinary proceedings under the Uniform Code of Military Justice? (Include non-judicial, Captain's mast, etc.)															
f In the last 7 years, have you been arrested for, charged with, or convicted of any offense(s) not listed in response to a, b, c, d, or e above? (Leave out traffic fines of less than \$150 unless the violation was alcohol or drug related.)															
If you answered "Yes" to a, b, c, d, e, or f above, explain below. Under "Offense," do not list specific penalty codes, list the actual offense or violation (for example, arson, theft, etc.).															
<table style="width: 100%; border: none;"> <tr> <td style="width: 10%; border-bottom: 1px solid black;">Month/Year</td> <td style="width: 20%; border-bottom: 1px solid black;">Offense</td> <td style="width: 20%; border-bottom: 1px solid black;">Action Taken</td> <td style="width: 40%; border-bottom: 1px solid black;">Law Enforcement Authority/Court (Include City and county/country if outside U.S.)</td> <td style="width: 10%; border-bottom: 1px solid black;">State</td> <td style="width: 10%; border-bottom: 1px solid black;">ZIP Code</td> </tr> <tr> <td colspan="6" style="height: 40px;"></td> </tr> </table>				Month/Year	Offense	Action Taken	Law Enforcement Authority/Court (Include City and county/country if outside U.S.)	State	ZIP Code						
Month/Year	Offense	Action Taken	Law Enforcement Authority/Court (Include City and county/country if outside U.S.)	State	ZIP Code										

Enter your Social Security Number before going to the next page →

24 YOUR USE OF ILLEGAL DRUGS AND DRUG ACTIVITY

The following questions pertain to the illegal use of drugs or drug activity. You are required to answer the questions fully and truthfully, and your failure to do so could be grounds for an adverse employment decision or action against you, but neither your truthful responses nor information derived from your responses will be used as evidence against you in any subsequent criminal proceeding.

- a** Since the age of 16 or in the last 7 years, whichever is shorter, have you illegally used any controlled substance, for example, marijuana, cocaine, crack cocaine, hashish, narcotics (opium, morphine, codeine, heroin, etc.), amphetamines, depressants (barbiturates, methaqualone, tranquilizers, etc.), hallucinogenics (LSD, PCP, etc.), or prescription drugs?
- b** Have you ever illegally used a controlled substance while employed as a law enforcement officer, prosecutor, or courtroom official; while possessing a security clearance; or while in a position directly and immediately affecting the public safety?
- c** In the last 7 years, have you been involved in the illegal purchase, manufacture, trafficking, production, transfer, shipping, receiving, or sale of any narcotic, depressant, stimulant, hallucinogen, or cannabis for your own intended profit or that of another?

If you answered "Yes" to a or b above, provide the date(s), identify the controlled substance(s) and/or prescription drugs used, and the number of times each was used.

Month/Year	Month/Year	Controlled Substance/Prescription Drug Used	Number of Times Used
To			
To			

25 YOUR USE OF ALCOHOL

In the last 7 years, has your use of alcoholic beverages (such as liquor, beer, wine) resulted in any alcohol-related treatment or counseling (such as for alcohol abuse or alcoholism)?

If you answered "Yes", provide the dates of treatment and the name and address of the counselor or doctor below. Do not repeat information reported in response to item 21 above.

Month/Year	Month/Year	Name/Address of Counselor or Doctor	State	ZIP Code
To				
To				

26 YOUR INVESTIGATIONS RECORD

- a** Has the United States Government ever investigated your background and/or granted you a security clearance? If "Yes," use the codes that follow to provide the requested information below. If "Yes," but you can't recall the investigating agency and/or the security clearance received, enter "Other" agency code or clearance code, as appropriate, and "Don't know" or "Don't recall" under the "Other Agency" heading, below. If your response is "No," or you don't know or can't recall if you were investigated and cleared, check the "No" box.

Codes for Investigating Agency
 1 - Defense Department
 2 - State Department
 3 - Office of Personnel Management
 4 - FBI
 5 - Treasury Department
 6 - Other (Specify)

Codes for Security Clearance Received
 0 - Not Required
 1 - Confidential
 2 - Secret
 3 - Top Secret
 4 - Sensitive Compartmented Information
 5 - Q
 6 - L
 7 - Other

Month/Year	Agency Code	Other Agency	Clearance Code	Month/Year	Agency Code	Other Agency	Clearance Code

- b** To your knowledge, have you ever had a clearance or access authorization denied, suspended, or revoked, or have you ever been debarred from government employment? If "Yes," give date of action and agency. **Note:** An administrative downgrade or termination of a security clearance is not a revocation.

Month/Year	Department or Agency Taking Action	Month/Year	Department or Agency Taking Action

27 YOUR FINANCIAL RECORD

- a** In the last 7 years, have you filed a petition under any chapter of the bankruptcy code (to include Chapter 13)?
- b** In the last 7 years, have you had your wages garnished or had any property repossessed for any reason?
- c** In the last 7 years, have you had a lien placed against your property for failing to pay taxes or other debts?
- d** In the last 7 years, have you had any judgments against you that have not been paid?

If you answered "Yes" to a, b, c, or d, provide the information requested below.

Month/Year	Type of Action	Amount	Name Action Occurred Under	Name/Address of Court or Agency Handling Case	State	ZIP Code

Enter your Social Security Number before going to the next page



28 YOUR FINANCIAL DELINQUENCIES		Yes	No
a	In the last 7 years, have you been over 180 days delinquent on any debt(s)?		
b	Are you currently over 90 days delinquent on any debt(s)?		

If you answered "Yes" to a or b, provide the information requested below:

Incurred Month/Year	Satisfied Month/Year	Amount	Type of Loan or Obligation and Account Number	Name/Address of Creditor or Obligor	State	ZIP Code

29	PUBLIC RECORD CIVIL COURT ACTIONS	Yes	No
In the last 7 years, have you been a party to any public record civil court actions not listed elsewhere on this form?			

If you answered "Yes," provide the information about the public record civil court action requested below.

Month/Year	Nature of Action	Result of Action	Name of Parties Involved	Court (include City and county/country if outside U.S.)	State	ZIP Code

30 YOUR ASSOCIATION RECORD		Yes	No
a	Have you ever been an officer or a member or made a contribution to an organization dedicated to the violent overthrow of the United States Government and which engages in illegal activities to that end, knowing that the organization engages in such activities with the specific intent to further such activities?		
b	Have you ever knowingly engaged in any acts or activities designed to overthrow the United States Government by force?		

If you answered "Yes" to a or b, explain in the space below.

Continuation Space

Use the continuation sheet(s) (SF 86A) for additional answers to items 9, 10, and 11. Use the space below to continue answers to all other items and any information you would like to add. If more space is needed than is provided below, use a blank sheet(s) of paper. Start each sheet with your name and Social Security Number. Before each answer, identify the number of the item.

[illegible]

After completing Parts 1 and 2 of this form and any attachments, you should review your answers to all questions to make sure the form is complete and accurate, and then sign and date the following certification and sign and date the release on page 10.

Certification That My Answers Are True

My statements on this form, and any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both. (See section 1001 of title 18, United States Code).

Signature (Sign in ink)	Date
Enter your Social Security Number before going to the next page	➡

Standard Form 86
Revised September 1995
U.S. Office of Personnel Management
5 CFR Parts 731, 732, and 736

Form approved:
O M B No. 3206-0007
NSN 7540-00-634-4036
86-111

UNITED STATES OF AMERICA

AUTHORIZATION FOR RELEASE OF INFORMATION

Carefully read this authorization to release information about you, then sign and date it in ink.

I Authorize any investigator, special agent, or other duly accredited representative of the authorized Federal agency conducting my background investigation, to obtain any information relating to my activities from individuals, schools, residential management agents, employers, criminal justice agencies, credit bureaus, consumer reporting agencies, collection agencies, retail business establishments, or other sources of information. This information may include, but is not limited to, my academic, residential, achievement, performance, attendance, disciplinary, employment history, criminal history record information, and financial and credit information. I authorize the Federal agency conducting my investigation to disclose the record of my background investigation to the requesting agency for the purpose of making a determination of suitability or eligibility for a security clearance.

I Understand that, for financial or lending institutions, medical institutions, hospitals, health care professionals, and other sources of information, a separate specific release will be needed, and I may be contacted for such a release at a later date. Where a separate release is requested for information relating to mental health treatment or counseling, the release will contain a list of the specific questions, relevant to the job description, which the doctor or therapist will be asked.

I Further Authorize any investigator, special agent, or other duly accredited representative of the U.S. Office of Personnel Management, the Federal Bureau of Investigation, the Department of Defense, the Defense Investigative Service, and any other authorized Federal agency, to request criminal record information about me from criminal justice agencies for the purpose of determining my eligibility for access to classified information and/or for assignment to, or retention in, a sensitive National Security position, in accordance with 5 U.S.C. 9101. I understand that I may request a copy of such records as may be available to me under the law.

I Authorize custodians of records and other sources of information pertaining to me to release such information upon request of the investigator, special agent, or other duly accredited representative of any Federal agency authorized above regardless of any previous agreement to the contrary.

I Understand that the information released by records custodians and sources of information is for official use by the Federal Government only for the purposes provided in this Standard Form 86, and that it may be redisclosed by the Government only as authorized by law.

Copies of this authorization that show my signature are as valid as the original release signed by me. This authorization is valid for five (5) years from the date signed or upon the termination of my affiliation with the Federal Government, whichever is sooner. Read, sign and date the release on the next page if you answered "Yes" to question 21.

Signature (Sign in ink)		Full Name (Type or Print Legibly)		Date Signed
Other Names Used				Social Security Number
Current Address (Street, City)		State	ZIP Code	Home Telephone Number (Include Area Code) ()

Standard Form 86
Revised September 1995
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Form approved:
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86-111

UNITED STATES OF AMERICA

AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION

Carefully read this authorization to release information about you, then sign and date it in ink.

Instructions for Completing this Release

This is a release for the investigator to ask your health practitioner(s) the three questions below concerning your mental health consultations. Your signature will allow the practitioner(s) to answer only these questions.

I am seeking assignment to or retention in a position with the Federal government which requires access to classified national security information or special nuclear information or material. As part of the clearance process, I **hereby authorize** the investigator, special agent, or duly accredited representative of the authorized Federal agency conducting my background investigation, to obtain the following information relating to my mental health consultations:

Does the person under investigation have a condition or treatment that could impair his/her judgement or reliability, particularly in the context of safeguarding classified national security information or special nuclear information or material?

If so, please describe the nature of the condition and the extent and duration of the impairment or treatment.

What is the prognosis?

I understand the information released pursuant to this release is for use by the Federal Government only for purposes provided in the Standard Form 86 and that it may be redisclosed by the Government only as authorized by law.

Copies of this authorization that show my signature are as valid as the original release signed by me. This authorization is valid for 1 year from the date signed or upon termination of my affiliation with the Federal Government, whichever is sooner.

Signature (Sign in ink)	Full Name (Type or Print Legibly)	Date Signed
Other Names Used		Social Security Number
Current Address (Street, City)	State ZIP Code	Home Telephone Number (Include Area Code) ()

Mr. CLINGER. It is very sensitive information, and, according to information also on the form, the questionnaire is for sensitive positions.

We have been conducting background checks using this form for over 50 years. But on the form it states, "The information you give us is for official use only. We will protect it from unauthorized disclosure. Authorized disclosure is through Privacy Act routine uses shown on this form."

What would you define as an official use? Isn't that pretty much of a guarantee to the person who is filling this out that it is going to be very, very tightly controlled and not being released to unauthorized people?

Mr. CULVAHOUSE. Yes, sir. As indicated in my opening statement, other than Jane Dannenhauer, there were only two lawyers in my office, other than me, who were authorized to look at the forms. One of those only looked at judicial forms, and that was because that is a fairly convoluted process with a lot of burden. And the other person was my deputy, and me, and no one else did. We had 12 lawyers on my staff, and none of them looked at FBI forms. It was a matter of supreme sensitivity, and lots of people are rightfully concerned about who's going to see their FBI file.

Mr. CLINGER. Thank you.

My time has expired, and I now turn to the gentlelady from Illinois, Mrs. Collins.

Mrs. COLLINS OF ILLINOIS. Thank you, Mr. Chairman.

Mr. Chairman, before I begin asking my questions, I would like to make the committee aware that the White House Chief of Staff, Leon Panetta, and White House Counsel for the President, Jack Quinn, have just announced that a new senior security officer will now be directing personnel security matters for the White House, and his name is Chuck Easley, who is now head of security for the Executive Office of the President. He served a total of 20 years in the U.S. Army, and he has a wide and distinguished background in security matters and will bring very needed expertise and experience to the important duties of the office.

And now I'm going to ask my questions, Mr. Chairman.

Ms. Gemmell, you had a long and distinguished career at the White House beginning with the Nixon administration—no, beginning with the Johnson administration, I believe you said.

Ms. GEMMELL. Johnson administration at the Department of the Treasury, and Nixon administration at the White House; yes, ma'am.

Mrs. COLLINS OF ILLINOIS. And you have served in the Special Projects Office, the Appointments and Scheduling Office, and from 1981 until your retirement in August 1993 in the Office of Personnel Security; is that correct?

Ms. GEMMELL. Yes, ma'am.

Mrs. COLLINS OF ILLINOIS. Did you train the employees of the office on a standard operating procedure before you retired in 1993?

Ms. GEMMELL. Yes, ma'am; that was in process.

Mrs. COLLINS OF ILLINOIS. That was in process?

Ms. GEMMELL. In process; yes, ma'am.

Mrs. COLLINS OF ILLINOIS. Does that mean that some of the staff had been trained?

Ms. GEMMELL. The staff still—for instance, the detailee that has been referenced still was not on board, so there were still going to be staff changes made. It was not a firm staff at that point.

Mrs. COLLINS OF ILLINOIS. At the point when you left?

Ms. GEMMELL. Yes, ma'am.

Mrs. COLLINS OF ILLINOIS. OK. We know now that the Clinton administration requested the FBI security files of individuals from the Bush White House. And based on your experience, how do you believe this might have happened?

Ms. GEMMELL. I can only say that now, having been removed from that office for almost 3 years and having to look from the outside in, I can only speculate that a follow-up procedure which would have been to request the Secret Service to provide a final list, a second list, was never made.

Mrs. COLLINS OF ILLINOIS. And if it were never made, then what implications would be there?

Ms. GEMMELL. A basic—basically, the Secret Service list was used as the primary source. Not the only source, but the primary source. If a follow-up list had never been requested from them, basically, a cross-reference check would have been almost impossible to make.

Mrs. COLLINS OF ILLINOIS. Were you regularly involved in updating the security files of the career White House employees beginning with these administrations, or the Reagan administration?

Ms. GEMMELL. Yes, ma'am, I was.

Mrs. COLLINS OF ILLINOIS. And did you rely on lists that they provided by the Secret Service for your primary source of these updates?

Ms. GEMMELL. We always heavily relied on the Secret Service, not only for current information, but for accurate information. And certainly, to the best of my knowledge, nothing like this has ever happened before.

Mrs. COLLINS OF ILLINOIS. Well, did you inform others in the office to request that an additional list from the Secret Service would be needed for these updates?

Ms. GEMMELL. Yes, ma'am. It was very much understood that the initial list the office had was just that, an initial list to be used to start the first steps of the Update Project. It was very well-known that many personnel decisions had yet to be made and therefore that follow-up would have to be done.

Mrs. COLLINS OF ILLINOIS. OK. Do you recall if the list provided by the Secret Service would have had an "A" for "active" or an "I" for "inactive" next to the names?

Ms. GEMMELL. No, ma'am, I do not recall.

Mrs. COLLINS OF ILLINOIS. When you requested copies of security files from the FBI, you filled in a standard form with the White House's name printed on the top. And I don't know if you can see this or not, but I guess it looks something like this?

Ms. GEMMELL. Yes, ma'am.

Mrs. COLLINS OF ILLINOIS. OK. Did any of your superiors review these form requests before you gave them to the FBI?

Ms. GEMMELL. Not when we were requesting the previous background report, no, ma'am.

Mrs. COLLINS OF ILLINOIS. So then during the regular update projects in which you were involved, how often would you request a list of names from the Secret Service?

Ms. GEMMELL. Basically, only twice, ma'am. At the beginning to initiate the process, and then the second time to be used as the final copy.

Mrs. COLLINS OF ILLINOIS. OK. And you would do that for any particular offices or high-turnover offices? Is that the reason why you requested a second one?

Ms. GEMMELL. Yes, ma'am, exactly.

Mrs. COLLINS OF ILLINOIS. Did you leave behind any Secret Service lists of names that you had requested for the Update Project when you left in August 1993?

Ms. GEMMELL. The list that was received from the Secret Service was left behind. It was still in process; far from being completed; correct.

Mrs. COLLINS OF ILLINOIS. Mr. Culvahouse, according to the FBI, since the late 1950's, the White House has routinely requested background investigations and checks to determine the suitability of applicants for Federal employment or the wisdom of allowing particular individuals to gain access to the President.

All of that was required in order for the White House to gain access to these background checks was a simple form with the name of White House Counsel typed on the top, similar to this one; is that right?

Mr. CULVAHOUSE. Yes, ma'am.

Mrs. COLLINS OF ILLINOIS. It is my understanding that these preprinted forms were also used while you were in the White House—while you were the White House Counsel; is that right?

Mr. CULVAHOUSE. Yes, ma'am.

Mrs. COLLINS OF ILLINOIS. OK. While you were the White House Counsel, these forms had your name on them; is that right?

Mr. CULVAHOUSE. That is correct.

Mrs. COLLINS OF ILLINOIS. OK. But it is my understanding that you did not actually sign these request forms; is that true?

Mr. CULVAHOUSE. I did not actually sign the forms, that is true.

Mrs. COLLINS OF ILLINOIS. How many people had access to these forms?

Mr. CULVAHOUSE. That is, I think the forms resided only in Jane Dannenhauer's office, and that office would be the only office that would have the forms.

Mrs. COLLINS OF ILLINOIS. OK. So then did you personally review all of the request forms before they were sent to the FBI?

Mr. CULVAHOUSE. Did I?

Mrs. COLLINS OF ILLINOIS. Yes.

Mr. CULVAHOUSE. No, ma'am. As I testified in my testimony, my office at very senior levels would have reviewed—would have approved putting the people in the positions, the making of the request forms for all nominees, all appointees, all senior White House positions.

The one category that my office at senior levels would not have been aware of would be more junior positions at the White House, secretaries, or whatever, where the retention or the hiring of that individual had been approved by the Office of the—the head of the

Office of Administration or the head of Presidential Personnel, and we—that person would be put in to clearance on that authority, with Jane Dannenhauer sending the person's name in, and then when the feedback would come back from the Bureau, that—the FBI file would be reviewed by my office to make sure that that person was an appropriate person to have a pass.

Mr. CLINGER. The gentlewoman's time has expired, I am sorry to say. The gentlewoman's time has expired.

Mrs. COLLINS OF ILLINOIS. Oh, Mr. Chairman.

Mr. CLINGER. When I look at the large array of members that are here to ask questions, I am going to have to hold very strictly to the 5-minute rule.

I recognize the gentleman from Indiana, Mr. Burton.

Mr. BURTON. Thank you, Mr. Chairman.

Mr. Chairman, I would like to have my complete statement submitted for the record.

Mr. CLINGER. Without objection, so ordered.

[The prepared statement of Hon. Dan Burton follows:]

PREPARED STATEMENT OF HON. DAN BURTON, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF INDIANA

Mr. Chairman, the recent discovery that the White House has obtained confidential FBI files on over 400 individuals is another example of the arrogance and abuse of power the Clinton administration has shown from day one. It is beginning to appear that the Clinton White House will do anything for its political advantage, even if this means running roughshod over people's professional and personal reputations. These are people who have served their Nation.

In the spring of 1993 we first saw this in the way that the seven employees of the White House Travel Office were summarily fired and then unfairly accused of wrongdoing.

The misuse of the FBI files is not an isolated incident. In 1993 Clinton political appointees at the State Department retrieved the personnel files of 160 political appointees who served during the Bush administration. They went on to leak to the press sensitive information in at least two of the files, for Elizabeth Tamposi and Jennifer Fitzgerald. This is a horrible abuse of these peoples' right to privacy.

This was happening at the State Department at the same time that the White House was obtaining the FBI files. We now find that, according to last week's FBI report, 71 additional files were in the possession of the Clinton White House than the President had initially admitted. FBI Director Louis Freeh indicated that the Clinton White House still retains at least 17 of the now-known tally of 408 files.

I think that FBI Director Freeh's words speak for themselves: "The prior system of providing files to the White House relied on good faith and honor. Unfortunately, the FBI and I were victimized."

The only reason that Congress and the American people found out about the White House's misuse of the FBI files was because the White House delivered documents to this committee at the eleventh hour, just before the Full House was to vote on a contempt citation. If this committee had not voted out a contempt citation, none of this would have become known and I think that the White House would still be snooping in these files.

Mr. Chairman, I commend you for your efforts to get to the bottom of what is now being referred to as "File-gate." I want you and all my colleagues on the committee to know that I will work with you to do everything I can to get the truth out and hold the Clinton administration accountable.

I look forward to the testimony from our witnesses today, and learning more about the procedures that previous administrations followed regarding FBI files. I think that today the committee will find out more about the right and proper way to handle this type of sensitive information, and this will help make the American public even more aware of just how out-of-line the Clinton White House is.

Mr. BURTON. Mr. Chairman, let me make three quick points before I ask some questions.

First of all, the misuse of FBI files is not an isolated incident. In 1993, the Clinton political appointees at the State Department retrieved the personnel files of 160 political appointees who served during the Bush administration. They went on to leak to the press sensitive information on at least two of these people from their files, Elizabeth Tampusi and Jennifer Fitzgerald, and this was a horrible abuse of these people's right to privacy, so I wanted to point that out.

Second, I would like to restate what Louis Freeh said, the head of the FBI, because I think it bears repeating: "The prior system of providing files to the White House relied on good faith and honor. Unfortunately, the FBI and I were victimized."

Now, this is a Clinton appointee saying this.

"I promise the American people that it will not happen again on my watch."

I think that is a very vivid statement, and I am happy that Mr. Freeh was honorable enough to make that.

The last thing I would like to point out is that on June 8, in an article in the Washington Post, Mr. Marceca said he read the files and notified Mr. Livingstone if they contained derogatory information.

Now, Mr. Culvahouse indicated that every single one of these forms had a list of questions, and at the end was a question: Is there anything else you should tell us that might cause embarrassment to the White House or cause some problems? And this would have constituted derogatory information that was very confidential. Am I correct in that?

Mr. CULVAHOUSE. Yes, sir.

Mr. BURTON. Can you ever recall anybody giving that kind of information to other people at the White House that was not properly cleared, or was that ever disseminated to other White House personnel when you were there?

Mr. CULVAHOUSE. No, sir. That was the hardest part, Congressman Burton, of our job in the clearance process, is explaining to the Chief of Staff, sometimes the President himself, the Office—the Director of the Office of Legislative Affairs, if the individual had congressional patronage, or the Office of Presidential Personnel, that for reasons we can't tell you, we are not going to clear that individual. That individual will never be nominated.

Mr. BURTON. But you wouldn't publicize that in any way?

Mr. CULVAHOUSE. No, sir.

Mr. BURTON. Let me ask you this. As I understand it, there were over 408 requests made of people from previous administrations over Mr. Nussbaum's, not his signature, but his name typed in on a form. Can you ever recall any administration requesting 50, 100, 200, or 408 records of previous employees from previous administrations?

Mr. CULVAHOUSE. Not me, Mr. Burton.

Mr. HAUSER. As I said in my opening statement, I recall no report for anybody from a prior administration unless it was in connection with appointment by President Reagan.

Mr. BURTON. To another post like the Supreme Court?

Mr. HAUSER. Well, there are many positions on some of your independent agencies that required Democrat appointments, so there may be somebody in that connection.

Mr. BURTON. But never unless it was involving another potential appointment by that current administration?

Mr. HAUSER. That is correct.

Mr. BURTON. Would you say that 408 requests from previous administrations with no prospect of additional employment within the current administration would be out of line?

Mr. HAUSER. Well, I think it is extraordinary. I mean, you have 400 prior employees of the White House going from A to G. I would suppose there were probably, if you do your arithmetic, 1,000 Bush appointees there. It is inconceivable.

Mr. BURTON. Mr. Marceca said in this newspaper interview that he notified Mr. Livingstone on these 408 files if there was any derogatory information. Would any of you think that was in line, or would you think that was out of line?

Mr. GRAY. Well, the job required updating derogatory information. But the review of these 408 files served no apparent purpose. They weren't being appointed to anything. And if you didn't update those files, some of them were 5, 6, 7 years old, if you didn't update those files with a name check or fuller investigation by the FBI, the FBI—as I said in my earlier testimony, those files were otherwise useless. They served no purpose.

Mr. BURTON. Since they served—

Mr. GRAY. They would go nowhere.

Mr. BURTON. Pardon me for interrupting. Since they served no useful purpose, then one, I would think, could only deduct that they were going to be used for political purposes or for some other purpose that was not consistent with good government.

Does anybody have any comments on that, or is that a deduction that I alone can make?

Mr. GRAY. All I can say is, is that there being no legitimate purpose, you have to wonder what the real purpose was. Why anybody would have continued reading these files after they got past James A. Baker III, why anyone would continue to read is a mystery to me.

Mr. CULVAHOUSE. Congressman Burton, Judge Freeh has already said that the files should not have been there, that it was a gross invasion of privacy. There was no appropriate reason for the files to be there, so a review for a derogatory information or even for positive information was inappropriate. In my view, the file should not have been there and it should not have been reviewed, period.

Mr. BURTON. Let me ask one final question.

Ms. Dannenhauer said that only employees currently working at the White House under her watch were scrutinized with this kind of information. Only current employees, is that right, when you were there, all the time were you there?

Ms. DANNENHAUER. Are you still talking about the great numbers of 400? I am sorry, Mr. Burton.

Mr. BURTON. My question is, people who were prospective employees or currently working at the White House were the only ones, that you recall, that you asked for this kind of information?

Ms. DANNENHAUER. Oh, absolutely.

Mr. BURTON. OK.

Thank you, Mr. Chairman.

Mr. CLINGER. The gentleman's time has expired.

I recognize the gentleman from California, Mr. Waxman, for 5 minutes.

Mr. WAXMAN. Thank you, Mr. Chairman.

Mr. Gray, Mr. Culvahouse and Mr. Hauser, is it accurate to say that you did not review every request that went from the Personnel Office to the FBI for security information?

Mr. Hauser?

Does anybody disagree with that statement?

You gentlemen didn't review every request; isn't that accurate?

Mr. HAUSER. That would be true. But you have to again, as Mr. Gray and Mr. Culvahouse indicated, in many instances, in most instances, the requests were triggered by the Form 86 or the consent of the individual being done. I think the only category where that may not have been done was to seek the prior completed background investigation.

Mr. WAXMAN. For whatever reason the request was being made, you gentlemen didn't review each request that was sent to the FBI, and you didn't get access to it unless there was a problem that was found at a lower level; isn't that correct?

Mr. HAUSER. That is generally correct.

Mr. WAXMAN. Ms. Gemmell, you testified that you would get lists from the Security Office—Secret Service Office, rather, and you would send those names on to the FBI; isn't that accurate?

Ms. GEMMELL. Yes, sir, after several other steps, but yes, sir.

Mr. WAXMAN. But that was generally the process?

Ms. GEMMELL. Yes, sir.

Mr. WAXMAN. We have had a 12-year period when the Republicans have been in office, and most of these men who were Counsel to the President were Counsel to a President who succeeded a previous Republican President; there was Reagan, Bush, and then—so they were there during those three terms.

When Mr. Reagan came into office in 1980, there was a transition from a Democrat to Republican.

Do you recall whether all of the files at that time on people working in the administration were handed over to the new administration?

Ms. GEMMELL. The same process was used, but certainly this problem never surfaced. As I said before, this is the first time this has ever occurred, to my knowledge, yes, sir.

Mr. WAXMAN. Well, the White House, Clinton White House claims that the Bush White House cleaned out all of the personnel security files of all White House employees and others with access. Was that done by the Carter administration before the Reagan administration took over?

Ms. GEMMELL. Yes, sir, it was. There would have been no files there.

Mr. WAXMAN. So they had to start all over again and compile these lists.

Ms. GEMMELL. That is correct, yes, sir.

Mr. WAXMAN. At that time did they have to then send in for the people who were held over?

Ms. GEMMELL. Absolutely, yes, sir.

Mr. WAXMAN. Where would they get the names?

Ms. GEMMELL. Again, sir, we used the Secret Service list to rely upon.

Mr. WAXMAN. So what we have here is a new administration taking over after 16 years of Republican rule, and we have—12 years, yes, forgive me. You wish they were 16, and you are trying hard now with partisan purposes to accomplish that goal.

But the fact of the matter is, after 12 years, this new administration came in with people who were not all that familiar with the processes.

Ms. Gemmell, did the Clinton administration ask you to stay on to help them out with this activity?

Ms. GEMMELL. I was extended, sir, on one occasion, yes. My first departure date, if I recall correctly, was to have been, I believe, around June 8. They did extend me then until August 13, yes, sir.

Mr. WAXMAN. And did they ask you to stay on beyond that?

Ms. GEMMELL. No, sir, they did not.

Mr. WAXMAN. Now, Mr. Marceca says in his explanation that he was trying to update all of these files and he took the information from the Secret Service. At best I can tell, he just had too many names that didn't make any sense for him to request information about; isn't that right?

Ms. GEMMELL. I can't—

Mr. WAXMAN. He just had a long list and no one could understand why he had such a long list, including people from the old administration.

Ms. GEMMELL. Again, sir, trying to look from the outside in now, I do believe that there was a serious, very serious problem of no name recognition by the individuals working on that list, yes, sir.

Mr. WAXMAN. Individuals working on the list before it went over to the FBI?

Ms. GEMMELL. Yes, sir.

Mr. WAXMAN. Does anybody here have any information to give us other than speculation that the information, once it was received from the FBI, was treated in a way that breached confidentiality? Anybody know that firsthand?

I gather—Mr. Gray, do you want to respond?

Mr. GRAY. Well, I think that our testimony has indicated that we did not have detailees from outside of the—

Mr. WAXMAN. No, no. My question is, do you know of your own knowledge that once they got all of these long list of names that probably were not appropriate to ask for summaries of the FBI files, that anybody got access to that that shouldn't have?

Mr. GRAY. Well, I would argue that Mr. Marceca shouldn't have access to those files and shouldn't have read through them. That is what I would argue.

Mr. WAXMAN. Mr. Marceca was assigned, detailed over. Maybe that was different than in previous administrations, but—

Mr. GRAY. If you are asking me do I know whether he in turn gave that information to anybody else, no, I don't know.

Mr. WAXMAN. You speculate that this might have been done for political purposes or some nefarious goal, but it is more likely that it was done because they had a long list and they didn't think through whether or not to request that information.

No one, to my knowledge, has indicated that there was inappropriate treatment of the list. In fact, Mr. Marceca says that it wasn't his job to determine who should or should not have been on the Secret Service White House access list. He wasn't going to make that judgment, so he got the list from others. And then he said there were only three files that were reviewed in the course of the Update Project that he delivered to Mr. Livingstone. Otherwise, these were all—

Mr. CULVAHOUSE. Mr. Waxman, I was on that list. He presumably reviewed my file. I did not consent to him, Mr. Livingstone, or anyone else at the Clinton White House, reviewing my file. It was inappropriate, and they shouldn't have done it.

Mr. WAXMAN. Well, you had a list when you were in charge of this. Did you know that everybody agreed to have their files reviewed?

Mr. CULVAHOUSE. Those were the only files we reviewed.

Mr. WAXMAN. Some people were being reviewed to see if they were going to be appointed.

Mr. GRAY. They always consented, Mr. Waxman. Always.

Mr. CLINGER. The gentleman's time has expired.

Mr. HAUSER. The distinction here, Mr. Waxman, is we are dealing with current employees versus prior employees. Current employees have an expectation that their file is going to be resident at the White House and that they are going to be updated in due course.

The people who were on that list were not current employees. It could have been easily verified, as Ms. Gemmell had done in prior years. And the notion that they were cleaned out—there is something called the Presidential Records Act, and files leave. This is tradition from administration to administration, and that these category of files were of a lower priority because the people who were employed at the White House in a holdover position had current permanent passes. There was not a concern for them.

The Secret Service was aware of who they are and had copies of their files and passed them on as well. So I think there is a qualitative difference here between current and former employees and their respective files.

Mr. CLINGER. The gentleman's time has expired.

I am now pleased to recognize the gentleman from New York, Mr. Gilman, and ask him if he might yield to me for one question?

Mr. GILMAN. I will yield to the Chairman.

Mr. CLINGER. Just to establish, Ms. Gemmell, that you did leave the White House in August 1993, I believe.

Ms. GEMMELL. August 13, yes, sir.

Mr. CLINGER. And so you were not there at the time of this spiking of requests for documents for FBI files that took place in December 1993 through January 1994?

Ms. GEMMELL. No, sir, I was not.

Mr. CLINGER. Thank you.

Mr. GILMAN. Thank you, Mr. Chairman.

What we have before us today is not partisanship, it is just bad practice and bad procedure. In October 1992, Vice President Gore, then a Member of the Senate stated, in very strong reaction to President Bush's Freedom of Information request for information about Mr. Clinton, and I quote: "This is an abuse of power unprecedented, to my knowledge, in the midst of a political campaign to have the President of the United States ordering tax dollars to be used in an official search for information of a personal nature and all of the Government files about a political opponent."

Now, Mr. Chairman, here we are holding hearings on the very actions the Vice President condemned just some 4 years ago, except this time it concerns the files of some 481 private citizens. I might add, Mr. Chairman, these are only the files that we know about. We have also been requesting the administration for some 2,000 pages of documents. Based on an executive privilege claim, they are being withheld, which I believe is constitutionally questionable and against the precedents established by Presidents going back to the Kennedy administration.

At every turn in this affair, the Clinton administration has attempted to downplay its significance. In fact, George Stephanopoulos, one of the President's close advisors, said the committee on June 8, and I quote: "Instead of making these charges, they should be apologizing for their original false charge."

Let's not make any mistake. This hearing is about far more than streamlining procedures for recordkeeping. As the Director of the Federal Bureau of Investigation declared about this issue on June 15, and I quote: The prior system of providing files relied on faith and honor. Unfortunately, the FBI and I were victimized, close quote.

This country doesn't need any more Watergates, it doesn't need another constitutional crisis. Obstruction of justice, contempt of Congress, violations of the Federal Privacy Act, misuse of the Federal Bureau of Investigation are all very serious charges. But so is an abuse of the faith and honor that not only the FBI, but the American people, must necessarily entrust to the President and to the White House.

It is our hope and concern, Mr. Chairman, that the Clinton administration will change in attitude and demeanor and begin to help this committee complete this important investigation of the Travel Office firings and will maintain the integrity of the security system of the FBI files.

[The prepared statement of Hon. Benjamin A. Gilman follows:]

PREPARED STATEMENT OF HON. BENJAMIN A. GILMAN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NEW YORK

Thank you, Mr. Chairman. As chairman of a major House committee I have always tried to avoid partisanship or being unfair in our deliberations.

What we have before us today is not partisanship—it is more than just bad practice or bad procedure.

In October of 1992, Vice President Gore, then a member of the Senate, stated a strong reaction to President Bush's Freedom of Information requests for information about Bill Clinton, "This is an abuse of power, unprecedented to my knowledge in the midst of a political campaign to have the President of the United States ordering U.S. tax dollars to be used in an official search for information of a personal nature in all of the government files about his political opponent."

And now, Mr. Chairman, here we are holding hearings on the very actions that the Vice President condemned just four years ago, except this time it concerns the

files of 481 private citizens. And I add, Mr. Chairman, these are only the files that we know about. We have also been informed that the Administration is holding back some 2000 pages of documents on an executive privilege claim which is Constitutionally questionable and against the precedence established by Presidents going back to the Kennedy Administration.

At every turn and twist in this affair, the Clinton Administration has attempted to downplay its significance. In fact, George Stephanopoulos, one of the President's closest advisors, said about this Committee on June 8, "Instead of making these charges, they should be apologizing for their original false charge."

One month from today, Mr. Chairman, marks the third year anniversary of President Clinton's pledge to get to the bottom of the Travel Office firings. And yet here we are, three years later, holding investigative hearings into papers that were produced years after the May 19, 1993 firing of the seven White House Travel Office employees.

Make no mistake, this hearing is about far more than streamlining procedures for record keeping.

As the Director of the Federal Bureau of Investigation declared about this issue on June 15th, "The prior system of providing files relied on faith and honor. Unfortunately the FBI and I were victimized."

This country does not need another Watergate. It does not need another Constitutional crisis, Mr. Chairman.

Obstruction of justice, contempt of Congress, violations of the Federal Privacy Act, misuse of the Federal Bureau of Investigation, these are all serious charges and crimes.

But so is an abuse of the "faith and honor" that not only the FBI, but the American people must necessarily entrust to the President of the United States and The White House.

It is my hope and concern, Mr. Chairman, that the Clinton Administration will change in attitude and demeanor and begin to help this Committee complete its investigation of the Travel Office firings and will maintain the integrity of the security system for FBI files. We look forward to the testimony of our witnesses.

Thank you Mr. Chairman.

Mr. GILMAN. I would like to ask Ms. Gemmell, who was your superior when you were in office, Ms. Gemmell?

Ms. GEMMELL. With the Clinton administration, sir?

Mr. GILMAN. Yes.

Ms. GEMMELL. It would have been Mr. Livingstone.

Mr. GILMAN. And before that?

Ms. GEMMELL. And before that, it would have been Ms. Dannenhauer.

Mr. GILMAN. Ms. Dannenhauer, let me ask you, describe what files, if any, remain in the Office of Personnel Security after an administration ends up its term?

Ms. DANNENHAUER. Well, first are all, the name of the, the correct name of our office always was White House Security. It was not Personnel Security, because we also handled the Presidential personnel. It was only during the new administration where they separated it out apparently and changed the name to White House Personnel Security.

Mr. GILMAN. And what files remain in that office?

Ms. DANNENHAUER. No files. No, sir.

Mr. GILMAN. Have you ever assisted a new administration after a political party change in the White House as in the Bush-Clinton changeover?

Ms. DANNENHAUER. Yes, sir.

Mr. GILMAN. And what training did you provide to the new administration?

Ms. DANNENHAUER. Well, I would sit down with the attorneys in each case, or in each new administration, and explain to them what we had and what we were doing there. And it was quite,

sometimes, lengthy, but we tried to explain it without getting into the, all of the minutia.

Mr. GILMAN. How long did you remain when the administration changed over?

Ms. DANNENHAUER. Well, which administration, sir?

To this administration?

Mr. GILMAN. In the Carter administration.

Ms. DANNENHAUER. The Carter administration was 2½ months. It was until April 1, because they did not have a Director.

Mr. GILMAN. When the Clinton administration came into the White House, did you meet with Craig Livingstone?

Ms. DANNENHAUER. Yes, I did, eventually, yes, he came in. But initially I met with about four, possibly five attorneys and showed them exactly what we—what our office was functioning with. And so eventually it was Mr. Kennedy. He was not there in the very beginning. I believe he came maybe 3 weeks later, I am not sure of the date. But in the very beginning there were two attorneys that I discussed it with, and then there were two or three more, and none of those people were, of course, over that office.

Mr. GILMAN. Ms. Dannenhauer, did any of the former counsel think or advise you that the documents showing the White House requests for Billy Dale's FBI records should have been subject to executive privilege?

Ms. DANNENHAUER. No, sir.

Mr. GILMAN. Could I address that to the former Counsel who are here?

Did any of them—did any of the Counsel advise Ms. Dannenhauer that a request would be subject to executive privilege?

Mr. GRAY. I don't think I would have, but the question never came up. It is sort of a hypothetical. I don't think this material is privileged, but it never came up in the Bush administration.

Mr. GILMAN. Can I ask the other Counsel?

Mr. HAUSER. The same answer for me, sir.

Mr. CLINGER. Would the gentleman yield?

Mr. GILMAN. I would be happy to yield.

Mr. CLINGER. If I could clarify that, if I may; this whole thing began to develop because of one of those slips that we have referred to. Over Mr. Nussbaum's request, it was indicated that for Billy Ray Dale, and that was originally a claim of executive privilege. Do you think that was a legitimate claim of executive privilege?

Mr. GRAY. I would say definitely not legitimate.

Mr. CULVAHOUSE. I agree with that, Mr. Chairman.

Mr. HAUSER. I agree.

Mr. CLINGER. The gentleman's time has expired.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. CLINGER. I am pleased to recognize the gentleman from California, Mr. Lantos.

Mr. LANTOS. Thank you very much, Mr. Chairman. I want to commend you for holding these hearings.

It was observed last week that in this town every snowfall is a blizzard and every event is historic, and if you look at the paraphernalia here, it seems like an historic event, but of course it clearly is just an attempt at a political smear of the White House.

I must admit I am appalled—if my friend from New York will stay—I was appalled to hear my friend from New York draw an analogy of an attempt to dig up dirt in a Presidential campaign on one of two candidates and the stupid mistake of obtaining existing FBI files on some 400 bureaucrats of one type or another. None of these people was running for President, Mr. Gilman. This was not a Presidential campaign.

When the Bush administration tried to get the dirt on Mr. Clinton, that was an attempt to interfere with the Presidential election. This was an inexcusable, stupid mistake, which we all condemn.

But let me move on.

Mr. GILMAN. Will the gentleman yield?

Mr. LANTOS. No, I will not yield. I only have 5 minutes.

Let me move on to another issue that Mr. Culvahouse mentioned, which I think is rather interesting.

You understandably are irritated, as I would be irritated, if some clerk at the White House got my FBI file for no reason whatever. I sympathize with you and empathize with you. But isn't it true that in conducting the FBI investigation of you, you initially gave your consent, didn't you, as everybody else did?

Mr. CULVAHOUSE. Yes, that is correct.

Mr. LANTOS. So you know, you provided your consent for an FBI investigation.

This stupid request should never have been made, they should never have gotten your file, and you are absolutely correct. But these were not files which were obtained without consent. Your file was obtained with your prior consent.

Mr. CULVAHOUSE. Mr. Lantos—

Mr. LANTOS. Let me just finish, because I don't have much time. I am using my 5 minutes any way I choose.

Mr. DAVIS. I ask unanimous consent, we don't take the gentleman's time and allow the witness to answer.

Mrs. COLLINS OF ILLINOIS. I object, Mr. Chairman.

Mr. CLINGER. If Mr. Lantos has asked a question, I think the witness should be allowed to answer.

Mr. LANTOS. I have not asked a question, Mr. Chairman.

Now, let me sort of try to establish where we are. We all agree that privacy is paramount. We all agree that this procedure by the two people in the office was stupid, inexcusable, unacceptable, and they probably should both be fired, and I hope they will.

But the fact remains that just as Mr. Bush was never personally involved in requesting FBI files, Mr. Clinton was not involved in requesting your file or anybody else's file. We now have instituted the tightest procedures in American history so this idiotic mistake will never again take place.

The President apologized, Leon Panetta apologized, and what we have now is an attempt to drag out a political smear because the Dole campaign is not getting off the ground. That is what we are dealing with. And it is important for the American people to know what we are dealing with.

I do have a question of Mr. Culvahouse.

Has there been any damage come to you, except for the psychological damage, for this individual having requested your file and

presumably read it? Have you incurred any, any negative consequence, other than the fact that it should never have happened?

Mr. CULVAHOUSE. I mean, that alone is considerable. I think what this tells me——

Mr. LANTOS. But it is a simple question, Mr. Culvahouse. Has any negative event happened to you as a result of this stupid bureaucratic mistake, and if so, tell me what it was.

Mr. CULVAHOUSE. The fact is that now my file, without my consent, has been reviewed by a clear——

Mr. LANTOS. We all know that.

Mr. CULVAHOUSE. The next time that I think about going in to Government, I have to worry about that he will be the first person that the press will call, and that is considerable.

Mr. LANTOS. But thus far, nothing happened, nothing negative happened, is that true?

Mr. CULVAHOUSE. Other than the fact that an individual has reviewed my file without my consent, no.

Mr. LANTOS. OK. Has anything happened to Jim Baker, our former Secretary of State, anything negative?

Has anything negative happened to any of the 408, other than it shouldn't have happened? We all agree with that. But to build this up into a criminal craze, nuclear war is just an absurdity.

I have one final observation, since I still have time, surprisingly.

I want to read for the record Craig Livingstone's affidavit which says: Craig Livingston hereby declares, I make this declaration based on personal knowledge, I was never asked to obtain, I never instructed by anyone to obtain, I never sought myself to obtain, and I never disseminated or asked anyone else to disseminate any information I learned from any FBI background files on any person for any improper purpose whatsoever. I declare under penalty of perjury, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, signed and dated.

What we are dealing with is a stupid, idiotic bureaucratic mistake. These people are now on leave, I hope they will be fired. New procedures are in place, and we are trying to resuscitate a gasping Dole Presidential campaign. That is what we are dealing with.

Thank you, Mr. Chairman.

Mr. CLINGER. I thank the gentleman for his views.

Mr. HAUSER. Mr. Chairman, may I respond? I think it was a question that Mr. Lantos did ask.

Mr. FATTAH. Mr. Chairman, can we proceed? There was no question asked.

Mr. HAUSER. There was a question.

Mr. FATTAH. Mr. Chairman, excuse me. There was no question asked of this gentleman.

Mr. CLINGER. Well, he is responding to a question that was raised.

Mrs. COLLINS OF ILLINOIS. What was the question, Mr. Chairman? Rather than answer a question——

Mr. FATTAH. We have many members here waiting to ask questions.

Mr. CLINGER. I will yield to the gentlelady from Maryland for 5 minutes.

Mrs. MORELLA. I was just going to say that beginning my 5 minutes, I will defer to Mr. Hauser, if he wishes to respond to a former question.

Mr. HAUSER. The point that I was going to make was this, that Mr. Culvahouse, Mr. Lantos, did not consent to his——

Mr. DAVIS. Could we have order? I can't hear. There is some noise coming from the other side.

Mr. HAUSER. The question again was along the lines of no harm, no foul, and that Mr. Culvahouse, you had consented to the background report. Mr. Culvahouse had consented to a background report in connection with his appointment as Counsel to the President for the Bush administration. He never consented to his file being in the Clinton administration for any purpose, and there is no justification by which that file could have been obtained.

Mr. LANTOS. The point I was making is that he consented——

Mr. DAVIS. Regular order, Mr. Chairman.

Mr. CLINGER. The gentleman is out of order.

The time belongs to the gentlelady from Maryland.

Mrs. MORELLA. Mr. Chairman, do you want me to continue with my time, or shall we wait until we vote and come back? There seems to be a lot of distractions.

Mr. CLINGER. I think we are going to have a series of votes, so in view of the fact that we are going to have a series of votes, I would like to go until second bells. So please continue.

Mrs. MORELLA. I want to thank you, Mr. Chairman, for holding this critical hearing today. I think the American public deserves to know the policy, procedure, and privacy issues. These are all very important to all of us.

I want to point out that this investigation began in July 1993 when the chairman first sent a letter regarding the circumstances surrounding the firings of seven White House Travel Office employees.

The document that triggered the release of the FBI file list was only discovered when the 1,000 pages that were produced by the White House the day that the House was scheduled to vote on the Contempt Resolution, that they arrived. Contained in those 1,000 pages was a memo from former White House Counsel Bernard Nussbaum to the FBI requesting confidential FBI reports on Billy Dale who had been fired 7 months before.

We now know that Billy Dale's file was among those 400 confidential FBI files requested by the White House, predominantly comprised of former Reagan and Bush appointees and some who had not worked in the White House for over a decade. Incidentally, with Jim Baker's name there, we know that he may have run for the presidency.

Mr. Chairman, this committee I believe firmly has the responsibility to raise some critically important questions. And in the words of the FBI, the White House request for the 481 FBI folders were quote: "Without justification and served no official purpose."

And so we must determine why the files were requested, what was done with them, and why long-time political operatives were in positions that allowed them to have access to and to hold on to such sensitive information. Ultimately, we must answer the question, was it the result of gross and inept mismanagement, as has

been suggested, or something that had another underlying rationale that was more sinister.

So today's hearing is important to lay the groundwork, the background in terms of how things had been done in previous administrations so we can compare them with what has been done with this egregious behavior.

Our witnesses, in sharing their experiences, they are very profitable, because they give us—tell us about how they received and secured confidential FBI background files with access lists and all of the other.

Once we understand all of this, we can then compare and contrast the actions of the administration in the hopes of also correcting it in the future and trying to redress the problems that have occurred because of this.

I think a frightening breach of privacy has occurred. More than 400 citizens, some of whom are my constituents, have looked through that list, have been victimized. This is a critically important step en route to discovering the truth.

[The prepared statement of Hon. Constance A. Morella follows:]

PREPARED STATEMENT OF HON. CONSTANCE A. MORELLA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. Chairman, I want to thank you for holding this critical hearing today, and for your continued leadership on this issue. I want to point out this investigation began in July, 1993 when you first sent a letter regarding the circumstances surrounding the firings of seven White House Travel Office Employees. The document that triggered the release of the FBI file lists was discovered in the 1,000 pages that were produced by the White House the day that the House was scheduled to vote on the contempt resolution. Contained in those 1, 000 pages was a memo from former White House Counsel Bernard Nussbaum to the FBI requesting confidential FBI reports on Billy Dale, who had been fired seven months before. We now know that Billy Dale's file was among the 400 confidential FBI files requested by the White House, predominately comprised of former Reagan and Bush appointees—some of whom had not worked in the White House for over a decade.

Mr. Chairman, this committee has the responsibility to raise some critically important questions. In the words of the FBI, the White House requests for the 481 FBI folders were, "without justification and served no official purpose." We must determine why these files were requested, what was done with these files, and why long-time political operatives were in positions that allowed them to have access to and hold on to such sensitive information. Ultimately, we must answer this question: was this the result of gross and inept mismanagement, or something far more sinister? Today marks the first in a series of hearings that will attempt to shed light on what really happened.

Today's hearing will provide the foundation necessary to begin this investigation. Our distinguished witnesses will share their experiences with the receipt and security of confidential FBI background files, with access lists, with their FBI communications and their procedures for requesting, reviewing and maintaining sensitive files.

Once we understand their experiences, we will be able to compare and contrast the actions of this Administration. Subsequent hearings will address the procedures of the current Administration, how the FBI handled the requests, and why this Administration differed their procedures.

An egregious breach of privacy has occurred. More than 400 citizens, many of whom are my constituents, have been victimized by the White House. This is a critically important step on route to discovering the truth.

Mrs. MORELLA. I would like to address a few questions to some of the panelists. For instance, Ms. Dannenhauer, did you allow volunteers or interns to work in the White House Office of Personnel Security to help prepare the forms, to order background files?

Ms. DANNENHAUER. No, ma'am, we did not.

Mrs. MORELLA. Why didn't you?

Ms. DANNENHAUER. Because they were not cleared. We had to have—everyone in that office had to have a full background investigation by the FBI. Now, we did have detailees from other offices within the White House, but they—we had to verify that they had full background investigations.

Mrs. MORELLA. So this leads me then to a question for Ms. Gemmell. Did interns work in this office during the Clinton administration?

Ms. GEMMELL. Yes, ma'am. There were both students and volunteers.

Mrs. MORELLA. Did they work in the vault ever?

Ms. GEMMELL. Yes, ma'am, they did.

Mrs. MORELLA. Did they have clearances, if you know?

Ms. GEMMELL. No, ma'am, they would not have had completed full field background investigations.

Mrs. MORELLA. How old were they?

Ms. GEMMELL. Extremely young, ma'am. I would say—

Mrs. MORELLA. To me everybody is young, but—

Ms. GEMMELL. I would say perhaps between 18 and 20.

Mrs. MORELLA. Between 18 and 20.

Ms. GEMMELL. Uh-huh.

Mrs. MORELLA. Let me ask, I guess ask both of the women, Ms. Dannenhauer and Ms. Gemmell, was Mr. Livingstone working on other things such as Advance while you were there?

Ms. DANNENHAUER. Did you want me to answer that?

Mr. CLINGER. If the witness would answer the question.

Ms. DANNENHAUER. He was not there really very long while I was there. I only worked with him probably part-time. He would come in and maybe be there a half a day, as far as I can remember, and then he did come in ultimately, probably sometime—well, it probably would have been February.

Mrs. MORELLA. So your understanding is he didn't work full-time? You think you have to work full-time in that job?

Ms. DANNENHAUER. Eventually he might have. I would not know that.

Mrs. MORELLA. But you do see it as a full-time job?

Ms. DANNENHAUER. Yes.

Mr. CLINGER. We now have two votes that are pending. I am going to ask the indulgence of our panelists to recess the committee for about 15 minutes, I am not going to take a long break here, so that we can go and vote and return as rapidly as possible.

Thank you all.

[Recess.]

Mr. CLINGER. The committee will resume its sitting and come to order.

And if our witnesses can retake their places, we will proceed with the questioning.

The next gentleman I would like to recognize is the gentleman from West Virginia, Mr. Wise.

Mr. WISE. Thank you, Mr. Chairman.

I want to open my questions by stating that I think that based on what has come out so far, not only in this hearing, but also in the media and depositions and other information, there is actually

no question I think on anybody's mind that you can probably, in the context of public opinion, definitely get a verdict of gross incompetency, with a count of total insensitivity.

As one who used to chair the Privacy Subcommittee of this full committee, I take great umbrage at what has transpired.

And, Mr. Culvahouse, I think that the concerns you have expressed are quite appropriate.

Now, having said that, I also think it is important that this be a bipartisan inquiry and that we try to proceed as much as possible, because the issue really—everyone acknowledges there was great incompetency in the handling of these records and, as I say, insensitivity.

The real issue though is, does it go beyond that? And it seems to me the proper approach of this committee is two issues. One is, how did this procedure happen, and what steps are being taken to make sure it didn't happen again? The second one is a very serious one, and that is, was there anything beyond incompetency here, and what were the purposes in securing or obtaining these files?

In that vein, I have some questions which, if I can get them answered quickly, it would be very, very much appreciated.

First of all, in terms of the procedure that was used, which, as I understand it from all the counsels testifying, and I believe Mrs. Gemmell and Ms. Dannenhauer as well, the procedure that has been used has basically been in place for at least 30 years. That is what Mr. Shapiro found in his report to the FBI.

And so while we can talk about how closely people adhered to the procedure, the FBI itself, on page—at least page 3 of their statement, press statement, Director Freeh said it is now clear that the system was very vulnerable to misuse and that Government officials over several decades, including himself, Director Freeh, had not provided adequate oversight of the system, resulting now in violations in privacy.

So this was a system that had intrinsic flaws from the beginning; is not that correct?

Mr. GRAY. I don't agree that the system had intrinsic flaws, because it went 30 years without any problem like this.

Mr. WISE. But in terms—Mr. Gray, in terms of the procedure that was used, there was always the opportunity, was there not, for this reason? You have testified, and you have in your statement, that you yourself did not review each of these requests for update files personally; that you used a form that had your name, I presume, stamped on it as your predecessors and successors also used. Is that not the case?

Mr. GRAY. Yes, that is the case. But I believe the FBI itself understood that something was slightly irregular, because they notified the White House. Freeh's—Shapiro's statement, report, makes this clear, that they notified the White House during this file search for the 400 that no name checks were being done. That is in addition to copying the file and sending it over—and sending it over, doing a name check on that file, and the White House apparently responded—and nobody was identify as being either the maker or the recipient of the telephone call—that they understood that, and that was consistent with what the White House was doing.

And what I tried to say in my earlier testimony was, the unearthing of an old file like that without a name check should raise a red flag right there, because there could be no legitimate purpose for asking for that file or, I would suggest, providing it.

Mr. WISE. But in your statement, which I thought your written testimony was very, very complete and assisted me in preparing for this, you note on page 9 that this memorandum would—and you are talking about updates here—this memorandum would, as a formal matter, show the White House counsel as the requesting official. However, the document was routinely issued by the director of the Security Office without review or signature by anyone in the Counsel's Office.

Mr. GRAY. Let me repeat though—

Mr. WISE. I think you stated it well and you put your position out there, but I also think it is important to state that no White House counsel—at least, it appears that no White House counsel was personally signing off on these requests, because I need to get to the second part of this—

Mr. GRAY. Yes, yes, yes. I would like to just correct this. Except for people who were already working at the White House, more or less permanent staff people like in the Travel Office or the Correspondence Office, permanent staff. Unless you are talking about those people, each one of us would have signed off on the request for—

Mr. WISE. Well, I am going to have to come back.

I have a unanimous consent request, Mr. Chairman, and that is that during questions posed to these witnesses, the impression was left by the Chair and others, incorrectly, that the White House did not turn over to the committee the personnel files of past and current White House employees because of concerns about executive privilege.

I would request unanimous consent to place in the record a letter from Jack Quinn, counsel to the President, to Chairman Clinger, dated June 10, 1996, clarifying that the concern of the White House was not executive privilege but—and I quote—"The concern regarding these records was for the privacy of the individuals involved."

Mr. CLINGER. Without objection, the letter will be entered in the record at this point.

[The information referred to follows:]

THE WHITE HOUSE,
Washington, DC, June 10, 1996.

Hon. WILLIAM F. CLINGER, Jr.,
Chairman,
Committee on Government Reform and Oversight,
2157 Rayburn House Office Building,
House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: This letter responds to your June 5, 1996 letter to the President.

Your letter asks for wholesale production of the documents over which the President asserted a claim of executive privilege on May 30, 1996. The President's invocation of executive privilege with respect to these documents is based on constitutional principles, including the doctrine of separation of powers which, together with the powers inherent to the presidency itself, guarantees the right of the President to seek and receive confidential advice. As we have been advised by the Attorney

General of the United States, the documents in question are unquestionably within the scope of this privilege.

The process of balancing the constitutional interests of the White House and the Congress requires that your Committee make a particular showing of need for each of these privileged documents. Your characterization of recent events as "troubling" is not a sufficient basis for our abandonment of the constitutional principles that protect each of these documents from disclosure. As always, I remain prepared to discuss these matters further with you.

I do, however, want to correct the record in another respect. Contrary to suggestions in your letter, you will recall that when Jane Sherburne and I met with you and Kevin Sabo on February 15, 1996, we described the documents which were sought by the Committee but not yet provided—some because of privilege and privacy concerns, others because it was not feasible to respond to the Committee's request in the form it had been presented in the subpoena. One of the categories we discussed involved personnel records. Indeed, you may wish to review the attached document captioned "Agenda", which we provided to you at that meeting. That document, which reflects annotations made by Ms. Sherburne during that meeting, specifically identifies "Vetting/Personnel Records" as a category of documents we discussed and offered to show you in camera. We informed you then that our chief concern regarding these records was for the privacy of the individuals involved. Although you and your staff may not have attached significance to it then, we specifically recall telling you that Billy Dale's personnel file was among these records. You declined our offer to review these personnel records at that time and when we renewed it on May 8, 1996. Accordingly, we produced the records to the Committee on May 30, 1996, after the President determined not to assert a claim of executive privilege with respect to them.

To set the record straight in one other respect, you will recall that the President's assertion of privilege on May 8, 1996 was made on a protective basis to ensure the ability of the White House, in consultation with the Attorney General, to consider carefully the appropriateness of the assertion of executive privilege with respect to particular documents. It is not correct to say that the President asserted privilege over this particular document. After our review, he did not assert privilege, which is why you now have it.

Sincerely,

JACK QUINN,
Counsel to the President.

Enclosure

cc: Hon. Cardiss Collins

Mr. CLINGER. The gentleman's time has expired, and I now recognize the gentleman from New Mexico, Mr. Schiff, for 5 minutes.

Mr. SCHIFF. Thank you, Mr. Chairman.

I want to first begin by responding to some comments made by our colleagues earlier that this hearing is an attempt to bolster the Dole Presidential campaign. The fact is that the Dole Presidential campaign didn't put FBI files in the White House. The Clinton administration did, all by itself.

And the fact of the matter is, Mr. Chairman, you have tried to close this matter a number of times. You have tried to put the Travel Office investigation to rest. But each time you have tried to do that, new information, unexplained information, damaging information, has come out.

The first time around, we had a hearing on administrative investigations of the Travel Office firings. We found out the White House hid documents from the administrative investigators. Then we had a hearing in which it was testified to by a White House administrator through a memorandum he wrote that quite possibly the firing of those employees was ordered by people much higher than himself, which is what we were told by the White House.

And finally, at the point of a legal gun, a House vote for a criminal contempt of Congress citation, we get these documents. We learn about the existence of FBI documents inappropriately at the

White House. And we have received no real explanation as to why these documents were hidden from us.

There was a reference—I think I just heard that this was to protect the privacy of the individuals involved. Well, we don't have the FBI files in this committee, and we haven't asked for them. The fact is, if this was an innocent bureaucratic mistake, as we are being told, why didn't the White House reveal that it happened a long time ago?

Mr. WISE. Will the gentleman yield? It is my understanding that you do have those files. You are making an incorrect statement, sir.

Mr. SCHIFF. Regular order, Mr. Chairman.

Mr. CLINGER. Regular order.

Mr. SCHIFF. Nobody on that side of the aisle will yield, so I'm not about to start now.

The fact of the matter is that these documents not only were not revealed by the White House, which you think they would have done if this was an innocent bureaucratic mistake, but we had to pry them loose against their claim of executive privilege, which is normally a national security reason to keep things from Congress.

So I think there is more than ample room to understand why this investigation continues. I, too, wish it would be put to rest, but new revelations have prevented that from happening.

With that, Mr. Chairman, I have a few clarifying questions.

Ms. Gemmell, if I may address you because I believe you are the most recent employee at the White House, having left in August 1993, and I would like to ask, do you know what list Mr. Marceca was working from for which he obtained the White House—obtained the FBI documents? In other words, where did the list come from of names that he was using to ask the FBI for records?

Ms. GEMMELL. Sir, the only list, to my knowledge, was the list that was received from the Secret Service which was left behind at the time of my departure.

Mr. SCHIFF. And did you personally give him a list?

Ms. GEMMELL. Oh, no, sir; I had no idea who would be assuming that responsibility.

Mr. SCHIFF. Did you ever see the list?

Ms. GEMMELL. Yes, sir, I did.

Mr. SCHIFF. Can you describe what the Update Project that you were working on until August 13 was?

Ms. GEMMELL. Basically, again, sir, it was just simply setting up the very first stages of it, and, basically, that means that you were making dummy files; in other words, file jackets that would be used down the road. So therefore you were typing file labels, you were typing subject files. As an example, if you were processing the General Services Administration employees, you would type a subject file for that group also.

Mr. SCHIFF. Did you have a way of dividing up the Secret Service files—that is, GSA group or White House group there, or something like that?

Ms. GEMMELL. As I recall the list, sir, the list of employees was by category; in other words, was by office.

Mr. SCHIFF. And how many different offices were there, do you know, involved here?

Ms. GEMMELL. Numerous, sir, because that list would have also included such entities from the outside, so to speak, such as AT&T Telephone Company employees, C&P Telephone Company employees, that were also housed there at the White House.

Mr. SCHIFF. I understand.

I would like to go down the list of witnesses, because several witnesses tried to answer questions that were propounded to them and were interrupted by the members who were asking the question. I would like to see if any witness did not get an opportunity to finish an answer that they might have wanted to.

Mr. Gray, may I start with you? Is there anything that you wanted to add or state that you didn't have the opportunity to?

Mr. GRAY. Well, if you think about the harm that's done by allowing an Army employee, Democratic political operative—it could be a Republican political operative in a Democratic administration—to look over all of these files at his leisure, some 400 of them, in the future—if in the future, people who are to be recruited to serve in administrations and, as to them, people who are going to be asked about these people, as to their character and their ability, it's going to have a chilling effect, because how are you going to know whether you can trust the confidentiality of what you're doing?

That's the harm here, and it's all very well and good to say that they are going to put procedures in, and I certainly hope that these procedures are adhered to. All I'm saying is, damage is done, and, as A.B. said, how does he know, when another Republican President is elected, that this information won't be somehow used in a surreptitious way in a new confirmation process involving him?

Mr. SCHIFF. Mr. Culvahouse, do you have anything you wish to add?

Mr. CULVAHOUSE. I have been ably represented by Mr. Gray.

Mr. SCHIFF. Mr. Hauser?

Mr. HAUSER. A point I was going to make was on the damage issue, on a question related by Mr. Lantos, but I did want to respond to one other question earlier in terms of the treatment of these files.

If there was an individual for whom coming through the process there was derogatory, we would not make that information even available to the individual, the subject of the investigation, and we would direct them to the FBI to file a Privacy Act request and a FOIA request so that they may adequately respond to the file themselves.

Also, I don't think it's clear about update, what an update is. We are not updating. The process, Project Update, is not updating an investigative file to bring it current. It is simply to recreate a file that pre-existed at the White House. And there's a big distinction there between, again, current employees and prior employees.

That's all I would add for clarification.

Mr. CLINGER. The gentleman's time has expired.

Let the record note that we have—the committee has received the background file on Billy Ray Dale. We did not request it. It was sent to us by the White House. It is the only background file, however, that we have had. In fact, we have specifically indicated we

did not want to receive any other files, so we only have one in our possession.

And now I would be pleased to yield to the gentleman from South Carolina, Mr. Spratt, for 5 minutes.

Mr. SPRATT. Thank you, Mr. Chairman. And I thank our witnesses for their testimony.

On June 12, the New York Times published an account of this matter, and in it they say that the Secret Service maintained two lists. One was a list of those who had full or unfettered access to the White House, and each of them had what was called colloquially a hard card. And there was a second list, according to this article, which was a complete list of everybody who had access, those with full access and those with just limited access, whatever that is.

Is that correct, Mrs. Gemmell?

Ms. GEMMELL. Sir, I was never aware that there were two separate procedures.

Mr. SPRATT. Have you since been informed that this is the case? You say you never were. Is this—

Ms. GEMMELL. Of course, I saw the same information in the paper; yes, sir.

Mr. SPRATT. And is it correct in this article that Mr. Marceca requested from you a list and the list given was apparently the second list, the more comprehensive which the Secret Service had failed to update by deleting those who had turned in their cards?

Ms. GEMMELL. Sir, all I can say is that when we requested the list from the Secret Service, that the list requested was for current pass holders.

Mr. SPRATT. Current pass holders?

Ms. GEMMELL. Yes, sir.

Mr. SPRATT. And it didn't distinguish between those with hard cards, or those with full access, or those with limited access? It was just current access?

Ms. GEMMELL. No, sir. Again, I didn't even know that such a list existed.

Mr. SPRATT. Did you transmit that request to the Secret Service?

Ms. GEMMELL. Yes, sir, I did.

Mr. SPRATT. Did you have any conversations by telephone or personally with the Secret Service agent who compiled the list?

Ms. GEMMELL. I may well have, because the list does require additional information for the update process, so that sounds reasonable.

Mr. SPRATT. Do you have any recollection of those conversations or any description or characterization which the Secret Service placed upon the list in transmitting it to you?

Ms. GEMMELL. No, sir, I do not.

Mr. SPRATT. It is your understanding it was maintained in some sort of computer data base?

Ms. GEMMELL. Yes, sir, it was a computerized list.

Mr. SPRATT. So it was just a computer run which they delivered to you with these names on it?

Ms. GEMMELL. That is correct; yes, sir.

Mr. SPRATT. Did you examine the list and find anything yourself out of order, out of date about it?

Ms. GEMMELL. No, sir, because, again, it was simply represented to us as being a current pass roster.

Mr. SPRATT. And did you then hand the list over, once it was submitted to you, to Mr. Marceca?

Ms. GEMMELL. No, sir, I did not. When I retired, the list was left in the vault. I did not know who would be picking up with the project.

Mr. SPRATT. I see.

How did it come into his possession? After that, you have not since been employed in the Personnel Office?

Ms. GEMMELL. No, sir, I have not.

Mr. SPRATT. OK. So you obtained the list, and it was left in the vault, and this was apparently the list that Mr. Marceca by some means obtained?

Ms. GEMMELL. Yes, sir.

Mr. SPRATT. Do you know a Linda Wetzl? Was she working there during your time?

Ms. GEMMELL. I believe it might be Lisa Wetzl.

Mr. SPRATT. Lisa. I beg your pardon.

Ms. GEMMELL. Yes, sir. Yes, sir.

Mr. SPRATT. Now, are you familiar at all—have you discussed with anybody the manner in which she came upon the same list and determined herself that there were errors in it and then undertook to correct the flaws?

Ms. GEMMELL. No, sir, I have had no discussions of that nature.

Mr. SPRATT. Mr. Gray, or Mr. Culvahouse, or anyone else who has had the experience, what law, Executive orders, and White House memoranda control this process? Is there statutory law that controls access? Are there standing Executive orders that control the security clearance process?

Mr. GRAY. Well, there's the Privacy Act to begin with, and then there are all kinds of intelligence guidances and statutes that involve security clearance. And you have to understand that other agencies other than the FBI do security clearance work for other agencies. So there are myriad of statutes and procedures that affect this process. But in terms of how, as far as I know, how our offices ran this process, no, there's no law anywhere.

Mr. SPRATT. Just custom and procedure? You understood the sensitivity of it; you didn't have any written memoranda that dictated how access would be obtained?

Mr. GRAY. That's correct.

Mr. SPRATT. When you were doing an update, did you have to fill out a Form 86 for each name that you wished to request an updated file for?

Mr. GRAY. Yes, everybody who was going to be updated, everybody who had been through a full field investigation, time had elapsed since his or her last service, wanting to come back in the Government, in the White House or in the Cabinet, would have to fill out a new Form 86 to carry forth from the last date of employment in the Government, and a full field investigation would be run to fill the gap between the last day of Government service.

Mr. SPRATT. Even for holdovers though? Even for holdovers, permanent staff that worked in the White House?

Mr. GRAY. For permanent staff there would be perhaps—maybe Jane can answer this—perhaps it wouldn't be for, you know, a clerk in the White House. They wouldn't have to fill out another Form 86, but there would be a process by which they would be re-cleared.

Mr. SPRATT. Every 4 years you do an update on their background. But what sort of "need to know" do you need to demonstrate to the FBI in order to obtain access to the information sought by the Form 86? What showing is necessary?

Mr. GRAY. What showing is necessary for what purpose?

Mr. SPRATT. You send a form to the FBI, and you say, "I want the background file on this individual." What is the formulation that you must deliver to the FBI?

Mr. GRAY. Well, the form is the form—

Mr. SPRATT. I know the form, but what "need to know" do you have to demonstrate? What level of evidence of proof do you have to present?

Mr. GRAY. Well, the thing we have all tried to say, I think, is that with respect to 99 percent of all people for whom information would be requested from the FBI are consenting to it by filling out this Form 86.

Mr. SPRATT. And it is a very routine process and always has been.

Mr. GRAY. It is a very routine process. And believe me, when you finish doing your Form 86, you know what you're in for. The only time that we wouldn't have triggered a request to the FBI for a prior file is in connection with basically the permanent staff of the White House who, as Dick has tried to say, I think, are on notice, by the fact that they're permanently employed, they are going to have their files recreated and updated in the ordinary course of the 4-year turnover.

Mr. CLINGER. The gentleman's time has expired.

I am now pleased to recognize the gentleman from New Hampshire, Mr. Zeff, for 5 minutes.

Mr. ZELIFF. Thank you, Mr. Chairman.

I'm particularly concerned here because two people from New Hampshire are on that list, Paul Collins and Dave Carney, and Bobby Charles, my staff director of our Subcommittee on National Security.

And I just—when Mr. Lantos made his comments, and others, I kind of think of this as kind of my relationship to my bank. My banker has my confidential files, and if they are shared with my competition, the question might be, well, so what? What damage occurred? Well, a lot of damage occurred, and it's pretty hard to quantify. I would ask—and I guess 18- to 20-year-olds that haven't been cleared, that have access to this, being able to order files.

I would ask Mr. Gray and also Mr. Culvahouse, how serious is this? Is this something that Democrats as well as Republicans ought to be concerned with? This is a process that has been enforced for 30 years. Isn't this something to do with integrity and honor? What are your reactions to how serious? What about our national security? How far could this be breached?

Mr. GRAY. It's hard to know just what harm was done, but let me first say that I don't know where this so-called list came from.

I gather Nancy Gemmell doesn't either. I don't think anybody does. At least I don't.

But let's assume that somehow a list materialized that somebody started acting on by requesting individual files off that list. What I don't understand is how anybody could have read through 400 files. I don't see how they could have read past 4 files or read past Jim Baker and continued to spend 2 or 3 months reading through these files that were going to produce no official action. I just don't understand that.

And people were in and out of this room—detailees, interns, people with no clearance. Who else was look at these files? That to me is the puzzle here.

May be they were requested accidentally from the FBI, and maybe the FBI accidentally provided them, although they noted there was some irregularity because there were no name checks being requested in addition. But how anybody could have read them and left them there and had no intention, up until the confrontation with this committee, of turning them back, that to me is a total mystery.

Mr. ZELIFF. Is it possible that a team of people were looking at this? If one person couldn't go through them, how many people would it take? I mean, are there a lot more people, or was it just the fact that they were there?

Mr. GRAY. Well, it's the fact that they were there, and security doesn't appear to have been very tight. But I don't know who went in and looked at them. I just don't know.

Mr. ZELIFF. Mr. Culvahouse?

Mr. CULVAHOUSE. Congressman, I share many of Boyden Gray's concerns. I mean, the reason that all of us are troubled by this is that our process was so tight, it was professionally administered by Jane, who deserves most of the credit. She was the only person in her office, all of whom were cleared, all of whom were trained, that looked at the files. She was the only person who requested the files. There were no detailees, no interns, no one who wasn't trained, no one who wasn't cleared. And then other than Jane and the Secret Service and the FBI, it was only one or two lawyers in the Counsel's Office that looked at files. So that is the concern that we are being—that we are conveying.

And finally, everyone that we looked at had consented to their file being looked at by us. So that's the concern. That's the potential for harm.

Mr. ZELIFF. So there was a code of conduct, at least among yourself. You knew the difference between right and wrong, and there was a code of conduct that you adhered to. Is that a fair statement?

Mr. CULVAHOUSE. Yes, sir.

Mr. ZELIFF. Mr. Chairman, I just get concerned because of the hearings that we've had on the White House Communications Agency, Travelgate, and others, and it just seems to me that we have a situation here where some people on the other side have indicated, well, in spite of the fact that this is just gross or great incompetency, so what? There's no damage. I think that it is serious, and I think it leads to integrity.

Mrs. Gemmell, was there a photocopier in that room?

Ms. GEMMELL. Yes, sir, there was.

Mr. ZELIFF. And what do they use the photocopier for?

Ms. GEMMELL. Normally to make copies of the pass requests to Secret Service and also to make copies of the name check requests as well as the full field investigation requests going to the FBI, the request forms.

Mr. ZELIFF. And was there a responsibility of any of these 18- or 20-year-olds or people that weren't cleared? Is there a possibility that they could have made copies of any of the information that were available?

Ms. GEMMELL. Copies of the files? I can say, sir, at least when I was there, they were never left alone in that office.

Mr. ZELIFF. So there was while you were there a procedure that never left anybody alone that they could have made copies of the files?

Ms. GEMMELL. No, sir.

Mr. ZELIFF. Did you actually see the list that Special Agent Anthony Marceca was using?

Ms. GEMMELL. I can only assume it was the same list that was left behind.

Mr. ZELIFF. But did you actually see it and go through it and, you know—I mean, are you familiar with the list and you saw the list?

Ms. GEMMELL. I certainly saw the list that was delivered by Secret Service; yes, sir.

Mr. ZELIFF. But did you see the list that he was using?

Ms. GEMMELL. No, sir. I retired before he was brought on board.

Mr. ZELIFF. OK. I just would like to make a statement to those who feel that this is no big deal. I just feel very strongly, Mr. Chairman, that as we get to the bottom of this, whether they were used or whether people feel that damage was done, I certainly think that the people involved have a right to know how they were used, and they are the ones that are concerned.

I certainly wouldn't want to have my medical records passed around or my financial records passed around, and will yield back the balance of my time to you, sir.

Mr. CLINGER. The gentleman's time has expired. Thank you for your generosity.

Mr. ZELIFF. So noted.

Mr. CLINGER. I now would be pleased to recognize my colleague from Pennsylvania, Mr. Kanjorski, for 5 minutes.

Mr. KANJORSKI. Thank you, Mr. Chairman.

Ms. Gemmell, let me get something straight. You sat in this position for several administrations. Was it common at the end of every administration, regardless of party affiliation, for all the records in the computer in the White House to be destroyed or emptied or purged?

Ms. GEMMELL. No, sir, they were not destroyed. All files departed the premises. They were considered to be part of the Presidential papers.

Mr. KANJORSKI. OK. Now when files were requested during the Reagan administration and the Bush administration from the FBI under these forms, these were copies of FBI files; these weren't the original FBI files; is that correct?

Ms. GEMMELL. That is correct.

Mr. KANJORSKI. They created copies of files, and you don't know whether they were complete files or partial files; is that correct? I mean, there was no one in your office that went back to the FBI to check the original source of what was in the original FBI files. It was just that a request was made and a file was sent over and purported to be, quote, the file, whatever that meant, by the FBI.

Ms. GEMMELL. That is correct, sir.

Mr. KANJORSKI. And that was a copy; it was not the original; is that correct?

Ms. GEMMELL. That was a summary copy; yes, sir.

Mr. KANJORSKI. And whoever was in charge of reading through this file read through it and had no reason to refer to Counsel, because there were no problems of security involved; that file then would be put into the vault; is that correct?

Ms. GEMMELL. That is correct, sir.

Mr. KANJORSKI. And that is the process that occurred in all the administrations you were there?

Ms. GEMMELL. Yes, sir, that is correct.

Mr. KANJORSKI. And then at the end of the administration, all files that were in the vault—and there would sometimes—would have to be thousands—would then be made part of the Presidential archives and sent to wherever all the records of that particular Presidency went; is that correct?

Ms. GEMMELL. Yes, sir; those files were sealed.

Mr. KANJORSKI. Right, so that it is reasonable to assume that in the Reagan administration and the Bush administration there are files of everybody who had an SF-86 file or a clearance in the White House where a copy of their FBI file came over to the Security Office, that in all these Presidential libraries around this country there are these type of FBI files?

Ms. GEMMELL. That is my understanding; yes, sir.

Mr. KANJORSKI. Now, do we know whether they are under seal, or are they open to academics or anybody to get in there and read those files? I think most Presidential papers are available to academics, aren't they?

Ms. GEMMELL. Actually, sir, if it is permissible, this is the area of expertise of Ms. Dannenhauer, if I would be allowed to defer to her.

Mr. KANJORSKI. Are these filings sealed in all these libraries?

Ms. DANNENHAUER. Indeed they are sealed, yes, sir; and they are sealed for a number of years.

Mr. KANJORSKI. Do you know how many years they are sealed for?

Ms. DANNENHAUER. It used to be 25. I'm not sure if it is still 25.

Mr. GRAY. I think it is 20.

Ms. DANNENHAUER. 20 now.

Mr. KANJORSKI. But in all the courses of the administrations that Ms. Gemmell served under, nobody thought it may be that these are of such import to the individuals involved to protect privacy that. Rather than keeping a file in the vault, that the file was either sent back to the FBI for destruction or for protection but instead it is purported on. So we may have individual files of FBI files all over this country in different vaults. Is that—

Ms. DANNENHAUER. Well, they would be in each Presidential library; yes, sir. But they are——

Mr. KANJORSKI. But anybody having authority to ask for an FBI file would get a copy of the individual's FBI file, and then they are put in some vault, and they are all over the country.

Ms. DANNENHAUER. But there are other papers in there, sir. That's why they are considered part of the Presidential papers. But they are separated out from the regular Presidential archives. They were never intermixed with the Presidential archives, the regular Presidential archives files. They were separate, and they were sealed. Yes, sir.

Mr. KANJORSKI. But you are not saying that the files had additional information put in the FBI file. The FBI file remained the FBI file. It may become part of another file, but there was substantially nothing that the White House added to it. It was just what was sent over from the FBI representing that file.

Ms. DANNENHAUER. Yes, sir; but that was part of each individual file. That report—if you're speaking of the reports, they were never separated. They were never separate from——

Mr. KANJORSKI. That is a good question. I think everybody in this listening audience—I have never had the ability to work at the FBI, so I don't know what we are talking about in the FBI files. You are obviously the expert on this. Are these the absolute raw files, or are these the developed files and summary sheets developed by the people at the FBI that do the raw file and raw investigations?

Ms. DANNENHAUER. It's the latter, sir. They are summaries.

Mr. KANJORSKI. It's the summary.

Ms. DANNENHAUER. It's the summaries; yes, sir.

Mr. KANJORSKI. So it is not exactly what Mrs. Jones told about her neighbor next door in raw, quoted verbatim material; it is a summary. So if Mrs. Jones said that the person being investigated was unworthy of having a job and in the midst of that investigation she asked for a time out so she could go and talk to a person from outer space, in the FBI report it would sort of indicate that this individual being interrogated was not very responsible and therefore not a great deal of credence should be paid.

Ms. DANNENHAUER. You would have to ask that question, sir, of the FBI. They are the ones preparing the summaries. We get the summary of the raw data. We never see the raw data.

Mr. KANJORSKI. So the record is very clear, under Mr. Gray's administration, Mr. Culvahouse, and Mr. Hauser's administration, they never went to the FBI and said, "Hey, guys, we only want to use these files to check things, and there's no need for us to continue keeping these files here; let's set up a procedure and send them back."

They allowed thousands of files so that if the Reagan administration—literally thousands of files would have come over by the FBI, that when they left office their files went off to the archives. And the Bush administration would come in; you have to update all these files and crawl through all these new created copies of FBI files, put them in the vault. Then the Bush administration leaves; they go off to the Bush archives. Then the Clinton administration comes in, and they have to call for a third set of all these personal

FBI files, and they are brought over, and finally they remain in that vault for this period of a year or two, and we haven't yet had an archives established, and we may not for the next few years.

Mr. CLINGER. The witness can answer the question, but the time has expired.

Ms. DANNENHAUER. Sir, they wouldn't be the same files. It is a different administration. They would have no need—

Mr. CLINGER. The gentleman's time has expired.

Mr. KANJORSKI. If I may, Mr. Chairman, aren't these the gardeners, the chauffeurs, the cooks, the maids, the people that remain on the permanent staff of the White House for 20, 25, 30 years?

Ms. DANNENHAUER. Yes, we do have the support staff.

Mr. CLINGER. The gentleman's time has expired.

I am pleased to recognize the gentlewoman from Florida, who I would ask if she would yield to me for one question.

Ms. ROS-LEHTINEN. Of course.

Mr. CLINGER. If, in fact, you had discovered that you erroneously requested files to be sent over to the White House presumably because of a clearance situation and you discovered that they were, in fact, inappropriately called, would you have returned those files then to the FBI where they had been inappropriately claimed from?

Ms. DANNENHAUER. Yes, sir, we certainly would. Yes, Mr. Chairman, they would go back immediately, but it didn't happen.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Chairman. And I would like to congratulate you once again for holding this very important hearing. You have held many important ones during your tenure as chairman, and I would like to add my voice to the others who have expressed their great dismay and extreme concern about the misuse of the FBI files.

As we have been discussing, these files contained some of the most sensitive information on individuals that is collected anywhere in our country, and the information, often untested and uncorroborated, can ruin a person's life if it is made public.

We have been discussing how privacy is something that is very dear to us as Americans, and I find it incredible that the White House was able to request such confidential documents from the FBI and then simply store them, as Mr. Zeff has pointed out in his questioning, in an unsecured area.

Not only was the room wide open but, as the testimony has revealed, interns without security clearances routinely worked in the room. And the copy machine was there, only feet away from the area. Anyone could have made copies, and no one would have been the wiser.

So we hope that we can get to the bottom of all of these terrible issues.

I have some questions about the kinds of lists that were used, phone lists, et cetera, and I wanted to ask Ms. Dannenhauer a few questions.

This is the phone list of the Executive Office of the President early on in the administration. James Baker is not on this list. I was looking through it. Neither is Marlin Fitzwater, nor is Mr. Culvahouse. So there are many ways to find out who was at the White House at a specific time, and I want to understand how this could have happened.

So, Ms. Dannenhauer, could you tell us if you cross-checked information before you sent it out? What kind of cross references did you use? Can you name them for us?

Ms. DANNENHAUER. Excuse me. Are you speaking of the current administration? Because I was not there.

Ms. ROS-LEHTINEN. No; the expertise that you have during the time.

Ms. DANNENHAUER. Oh, the expertise. Yes, we would cross-check many, many lists before we would ever order anything from the FBI. Indeed, we would. And if there was a question on the Secret Service list initially, if we didn't—the advantage we had, I think, was that we knew a lot of the names. We wouldn't know the people personally, but we knew a lot of the names at the start of the new administration, and so if there was something there that we were not certain of, we would have other ways to find out by going to White House personnel.

In the Bush administration, we refined it in that the day the person came in to sign into the—for employment, the correct papers would be given to that person, and they would immediately send them to us for the 86 Forms.

Ms. ROS-LEHTINEN. So you had mentioned two of the lists already, a White House personnel list, a Secret Service list. What other kinds of lists were used to cross-reference names or to check?

Ms. DANNENHAUER. Excuse me, but in the beginning that would just be those two places, because we wouldn't have had a directory yet at the beginning stages.

Ms. ROS-LEHTINEN. So those would have been the lists that you had used?

The payroll list, would that be what you would call the White House personnel list?

Ms. DANNENHAUER. Oh, no, no. That would have been completely different. No. The White House gets a piece of paper—we called it a blue sheet—that was filled out with every person, and we had to have that sheet to do then the cross-check.

If the people had been coming on access, then we could cross-check with Secret Service. But we had a sheet on everyone. We had to have that vital information in order to do a name check. You have to have the date of birth, place of birth, social security number, and a current address. We couldn't do anything without that. The FBI wouldn't do a check without that.

Ms. ROS-LEHTINEN. Mrs. Gemmell, could you answer what kind of lists were available to your office, those who were currently on the payroll of the White House?

Ms. GEMMELL. Normally, ma'am, once again, the primary source for the Update Project was always the list from Secret Service, provided by Secret Service.

There was, not during the current administration, but during previous administrations, what we commonly referred to as the staff book. That was a list of names that was compiled by a security consultant. It could be used as a double check, a reference check source, but, again, not as the primary source.

Ms. ROS-LEHTINEN. When you say that something didn't exist, what were you referring to?

Ms. GEMMELL. The staff book.

Ms. ROS-LEHTINEN. Would this be what didn't exist?

Ms. GEMMELL. No, ma'am. The staff book actually was a list of individuals by department within the White House complex and their pass types.

Ms. ROS-LEHTINEN. And this Executive Office of the President, what would you call this, this listing?

Ms. GEMMELL. That would have been the telephone directory.

Ms. ROS-LEHTINEN. And you would not say that this would be the kind of guide that you would use, or it would be?

Ms. GEMMELL. No, ma'am. Actually, that would have been a very incomplete document from our standpoint, because it would not have had the names, for instance, of all the residence staff, all the GSA staff, all the, you know, extraneous entities such as the stenographer reporting firm.

Ms. ROS-LEHTINEN. Mrs. Dannenhauer, you would say that your job was a glamorous job or that it required a lot of hard, detailed work, didn't it?

Ms. DANNENHAUER. Well, I can only say that it was very low key as far as the rest of the White House was concerned.

Ms. ROS-LEHTINEN. And can you offer then your opinion on why Mr. Livingstone would be so interested in this job during the time that you overlapped with him at the White House?

Ms. DANNENHAUER. I would have no idea, because the paperwork alone makes people think twice before they even look in our office. So I don't think anybody really—and I'm sure that the counsels will agree with me—that nobody really is looking for that job when they come in.

Ms. ROS-LEHTINEN. So it is peculiar to you why anyone would have such an interest?

Ms. DANNENHAUER. Indeed, yes, ma'am.

Mr. CLINGER. I am pleased to recognize the gentlewoman from New York, Mrs. Maloney, for 5 minutes.

Mrs. MALONEY. Thank you very much, Mr. Chairman.

The President has declared the gathering of FBI files of hundreds of Republicans, some of them top-level advisors, to be inexcusable, and he has apologized to everyone who would listen. We must learn today whether this was indeed a bureaucratic snafu or an unauthorized, overzealous abuse of power by low-level White House staffers acting on their own, or something more sinister.

I would agree with my distinguished colleague, Mr. Lantos, who said earlier that the individuals involved should be fired. I share the outrage that the President has expressed to the American people over this mistake, and it is inexcusable.

But today I get the unmistakable sense that many on the other side of the aisle and a few of the witnesses at the table this morning believe that the incident under review today was politically motivated, an effort to dig up dirt on Republican Members, Republican officials, and, if I am not mistaken, that is a predetermined conclusion and not a statement of fact.

I would think that to support such a sweeping and dramatic conclusion, they would point to a tight chain of circumstantial evidence that inevitably leads to a conclusion. The evidence that we have so far is, a military detailee requested—and this detailee

should be fired—in near perfect alphabetical order, names of staff running from A to G. And I have the list here.

I have a list of 341 people that the gentleman requested. And on this list is Helen Abdo, Douglas Adair, Joseph Agin, Richard Alvarez, and you go through 19 names before I get to a name that I recognize, which is James Baker. Then you go through 100 more before I get to another name that I recognize, and that is Marlin Fitzpatrick. And I would like to think that if this was a political operation, they would have had maybe Mr. Gray's name on it, or—

Mr. GRAY. They appear to have stopped with me, or Wendy Gramm, just above me.

Mrs. MALONEY. Well, it may have been an alphabetical list, but in other words, they wouldn't have gone through 300 people that nobody knows to check on them. And if some high-level White House politico was running an operation, wouldn't they go directly to some names like John Sununu or Don Regan or other such people? And isn't it because there was no such operation that Sununu, Regan, and Mr. Gray, and others were not at the beginning of the alphabet and therefore were not requested?

And I believe that this explanation stands more with the terrible bureaucratic foul-up, snafu, than a sinister conspiracy, but then I do not start with a predetermined conclusion like some of you at this hearing.

And in the documents here, I have this one document that was executed on June 9, 1996, and it was signed by Anthony Marceca, and in it, I quote—and I want to put it in—he talks about his work and what he did with these files, and he says, "There were only three files that I reviewed in the course of the Update Project that I delivered for Mr. Livingstone's review. To the best of my recollection, none of these files were former high-ranking Reagan or Bush administrative officials such as"—he and leaves names out. "My recollection is that one of the individuals involved worked for the General Services Administration, one worked for the telephone company, and one was a groundskeeper."

And that's his evidence that he put forward. Well, that doesn't sound like an operation to get information on politically active Republicans.

But I do have with me part of the FBI file on Patricia Schroeder which she gave me, and in her file someone broke in her home, and she was put on a terrorist list because of her terrorist affiliation as Sandinistas-Marxist-Leninist, and she was, quote, an agent of influence.

But the most comical part in here is a report by someone who is in her home who is trying to find out if she is associated with the Socialist Workers Party or not, and as proof that she might be, he puts in this campaign button he took, "She Wins/We Win, Schroeder."

So this is part of her FBI file, and that seemed more of an effort to get dirt or to discredit someone.

And, by the way, I have ordered my own FBI file. I think every Member of Congress should maybe take a look at what is in these files.

Mr. Chairman, I would like to try to correct one statement that I believe was erroneously made. Earlier you stated that the committee never asked for Mr. Billy Dale's FBI background file. But I have the committee's subpoena to the White House that asks for every scrap of paper in the White House related to Billy Dale, and I would like to put that subpoena into the record.

[The information referred to follows:]

Subpena Duces Tecum

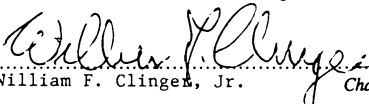
**By Authority of the House of Representatives of the
Congress of the United States of America**

To ..Custodian of Records, White House Office of Administration.....

You are hereby commanded to produce the things identified on the attached schedule before the
full Committee on Government Reform and Oversight
of the House of Representatives of the United States, of which the Hon. William F. Clinger, Jr.
..... is chairman, by producing such things in Room ..2157..... of the
Rayburn House Office Building, in the city of Washington, on
Monday, January 22, 1996, at the hour of ..5:00 pm.....

To Kevin Sabo, Barbara Bracher, Barbara Comstock, or U.S. Marshals Service
to serve and make return.

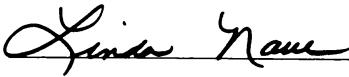
Witness my hand and the seal of the House of Representatives
of the United States, at the city of Washington, this
..11th..... day of ..January....., 19..96...


William F. Clinger, Jr. Chairman.

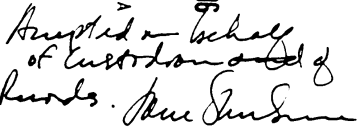
Attest:


Clerk.

by Linda Nave, Deputy Clerk



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JAN 11 6 42 PM '96
U.S. MARSHAL
DISTRICT OF COLUMBIA


Accepted on behalf
of Custodian of
Records. Ralston H. Carle

Subpena for Custodian of Records.....
 White House Office of Administration
The White House.....
 1600 Pennsylvania Avenue, Northwest
Washington, D.C. 20500.....

before the Committee on the.....
Government Reform and Oversight.....

11 Jan 96
 Served *James S. Burns* on Behalf
 of Custodian of Records White House
 Office of Administration At 1600
 Pennsylvania Ave. N.W.
 Washington, D.C.
 HERBERT M RUTHERFORD III
 U.S. MARSHAL
 B. *Stephen R. McEwen*
 DEPUTY U.S. MARSHAL

.....House of Representatives

DOCUMENT REQUEST TO THE
WHITE HOUSE OFFICE OF ADMINISTRATION

Definitions and Instructions

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(2) For purposes of this request, "The White House Travel Office matter" refers to all events leading to the May 19, 1993 firings of the White House Travel Office employees and includes all information provided about the White House Travel Office and any employees of the White House Travel Office at any time from January 1, 1993 to the present; the activities of Harry Thomason, Darnell Martens and Penny Sample at the White House; all allegations of wrongdoing concerning the Travel Office employees; actions taken by the Federal Bureau of Investigation and the Department of Justice, both prior to and after the firings (including the actions by any field office personnel and any White House involvement in coordination or attendance of interviews), including but not limited to U.S. v. Billy Ray Dale; all investigations and subsequent reviews of the Travel Office firings by any agency including, but not limited to the White House Management Review, the

FBI Weldon Kennedy/I.C. Smith review, the FBI OPR review, the Justice Department OPR review, the IRS internal review, the Treasury Inspector General review, the General Accounting Office review, the proposed U.S. House of Representatives "Resolution of Inquiry" considered and voted on in the House Judiciary Committee in July 1993; and all actions relating to or describing the criminal investigations into the White House Travel Office matter including any subsequent action or activities of any kind as a result of the above mentioned events by the White House, the Treasury Department, the IRS, the General Services Administration, the General Accounting Office, the Federal Bureau of Investigation, the Independent Counsel (both Mr. Fiske and Mr. Starr) and the Department of Justice up to the date of this request unless otherwise limited.

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2. All records related to the General Accounting Office review of the White House Travel Office.
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4. Any records related to American Express obtaining the White House Travel Office business including all records related to any contact with GSA or American Express up to the time of this letter.
5. All records related to the Peat Marwick review of the White House Travel Office and any subsequent reviews such as that performed by Tichenor and Associates and any records reflecting any contacts, communications or meetings with any Peat Marwick attorneys or officials to the present.
6. Any records of any contacts or communications related to any IRS matter regarding UltrAir and/or any IRS matter regarding any other White House charter company, any IRS matter related to any of the fired seven travel office employees, or any other IRS matter related to the White

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7. All records related to the Treasury Inspector General's investigation of the IRS audit of UltrAir. (The investigation requested by Rep. Frank Wolf in May 1993.)
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9. Any records relating to or mentioning the finding of the note in Mr. Foster's briefcase or any other location following his death, any Travel Office records of Mr. Foster's and any records relating to the finding of or existence of or explanations of any files of Mr. Foster's relating to the White House Travel Office matter, Special Government Employees, issues of nepotism, the use of volunteers or any efforts to obtain Office of Legal Counsel opinions on any of these matters and any records of any contacts with Mr. James Hamilton, Lisa Foster, Harry Thomason, Susan Thomases, James Lyons about Vincent Foster's records.
10. Any records relating to Mr. Thomason, Mr. Martens, Ms. Penny Sample, Ms. Betta Carney and Mr. Steve Davison and any other World Wide Travel employees including, but not limited to, all records indicating what these individuals did while at the White House, any documents relating to issues arising out of any actions they took while at the White House, any personnel records, requests for passes or pass forms, requests for office space and any forms related to office space, phones or other equipment, and any records relating to any actions taken by these individuals regarding the White House Travel Office. (For Ms. Sample, this request would also include all trip files for trips she had any involvement with while at the White House.)

11. All records about problems or allegations or wrongdoing in the Travel Office from January 20, 1993 to present.
12. All tapes or videotapes produced by Mr. Thomason or any associates of his for the White House, the Bill Clinton for President Committee or the Clinton/Gore '92 Committee and all billings and financial statements relating to such work.
13. Any tapes, tape recordings or videotapes of any kind related to the White House Travel Office, the White House Travel Office employees, or any allegations of wrongdoing by anyone in the White House Travel Office or any air charter company or other business doing business with the White House Travel Office.
14. Calendars of the following individuals:

Bill Kennedy, Vince Foster, Mack McLarty, Ricki Seidman, John Podesta, Todd Stern, Dwight Holton, Andre Oliver, Brian Foucart, Bruce Lindsey, Jack Kelly, Matt Moore, Beth Nolan, Cliff Sloan, Bernard Nussbaum, David Watkins, Catherine Cornelius, Jennifer O'Connor, George Stephanopoulos, Dee Dee Myers, Clarissa Cerda, Jeff Eller, Patsy Thomasson, Mark Gearan, Leon Panetta, Harry Thomason, and Maggie Williams

indicating any meetings, messages or discussions with any of these same named individuals among or between each other and among or between these named individuals and Susan Thomases, Darnell Martens, Webb Hubbell, Harry or Linda Bloodworth-Thomason, Larry Hermán (or any other KPMG partners or employees) or James Lyons between May 1 and July 31, 1993.

15. Phone records (including message slips, phone logs, pages, or any White House records of phone calls) for the same named individuals in paragraph #14 above, making or receiving calls from any of the same named individuals between May 1 and July 31, 1993.
16. All calendars and phone records, message slips or phone logs, of the following individuals, made to or from any of the following individuals,

from May 1, 1995 through November 30, 1995 regarding the White House Travel Office matter or the case of U.S. v. Billy Ray Dale:

Jane Sherburne, John Yarowsky, Natalie Williams, Miriam Nemitz, Judge Mikva, Maggie Williams, Capricia Marshall, Patsy Thomasson, John Podesta, Catherine Cornelius, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell, Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Catherine Cornelius, John Podesta, Beth Nolan, James Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughan, any employee of the Military office, Larry Herman, John Shutkin, any employee of KPMG Peat Marwick, Billy Ray Dale, Barney Brasseux, John Dreylinger, Ralph Maughan, John McSweeney, Robert VanEimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman, David Sanford.

17. All records related to Travel Office funds and/or documents being placed in the White House military office and all records of any inquiries about related events.
18. All records of any contacts with David Watkins or Bill Kennedy from the time they ended their employment at the White House to the present.
19. All Executive Order documents located in Mr. Foster's Travel Office files and/or his briefcases.
20. All records related to Harry Thomason and/or Darnell Martens discussing or pursuing contracts with GSA, all records related to ICAP, and any records of the White House Counsel's office analyzing the issues raised by Mr. Thomason and Mr. Martens actions at the White House.
21. All records related to any sexual harassment complaints about Mr. David Watkins during the Clinton/Gore 1992 campaign or during his tenure at the White House and any records of meetings, actions, or communications regarding such complaints and all records related to the \$3,000 per month retainer provided to Mr. Watkins by the Clinton for

President campaign.

22. All records of any contacts, communications or meetings regarding the "Watkins memo" produced to the Committee on January 3, 1996 and the chain of custody of this memo.
23. All indices or catalogues of Vincent Foster's office, tapes, computer and documents and who received each document from his office.
24. All records relating to the actions of Mr. Watkins at the White House regarding the use of White House helicopters, the names of all individuals in the two helicopters used in May 1994 for Mr. Watkins golf outing and all records relating to his departure from the White House.
25. All e-mail to or from the following individuals from May 7, 1993 through May 28, 1993, concerning the White House Travel Office matter as defined in paragraph (2), the White House project, or the Presidential Inaugural Commission: David Watkins, Patsy Thomasson, Jennifer O'Connor, Brian Foucart, Peter Siegel, Paul Toback, Catherine Cornelius, Clarissa Cerda, Dee Dee Myers, David Leavey, George Stephanopoulos, Mack McLarty, Ricki Seidman, Bill Burton, Bruce Lindsey, Harry Thomasson, Darnell Martens, Maggie Williams, Capricia Marshall, Lisa Caputo, Mark Gearan, Bernard Nussbaum, Isabelle Tapia, Vincent Foster, Deborah Gorham, Linda Tripp, Betsy Pond, Bill Kennedy, John Podesta, Dwight Holton, Andre Oliver, Todd Stern, Jean Charleton, Beth Nolan, Clifford Sloan, Rahm Emanuel, Lorraine Voles, and Craig Livingstone.
26. All e-mail to or from the following individuals from June 26, 1993 through August 1, 1993, concerning the White House Travel Office matter as defined in paragraph (2), the White House project, or the Presidential Inaugural Commission: Vincent Foster, Mack McLarty, David Watkins, Patsy Thomasson, John Podesta, Todd Stern, Dwight Holton, Andre Oliver, Bernard Nussbaum, Bruce Lindsey, Ricki Seidman, Mark Gearan, Maggie Williams, Lisa Caputo, George Stephanopoulos and Cliff Sloan.
27. All e-mail to or from the following individuals from September 1, 1993

through December 20, 1993, concerning the White House Travel Office matter as defined in paragraph (2), the White House project, or the Presidential Inaugural Commission: Mack McLarty, David Watkins, Patsy Thomasson, Cliff Sloan, Neil Eggleston, Bruce Lindsey, John Podesta, Todd Stern, Ricki Seidman, Maggie Williams, Mark Gearan, and George Stephanopoulos.

28. All e-mail to or from the following individuals from May 1, 1994 through September 8, 1994, concerning the White House Travel Office matter as defined in paragraph (2), the White House project, or the Presidential Inaugural Commission: Neil Eggleston, Lloyd Cutler, Joel Klein, John Podesta, Jane Sherburne, Sheila Cheston, Maggie Williams and Todd Stern.
29. All records relating to the matter of United States of America v. Billy Ray Dale, any investigation by the Justice Department into the White House Travel Office matter as defined in paragraph (2), and all records relating to Billy Ray Dale as well as any records of talking points prepared about Mr. Dale to the present.
30. All records related to the gathering of documents for any review or investigation related to the White House Travel Office matter as defined in paragraph (2). This includes, but should not be limited to, the White House Management Review, the IRS internal review, the GAO Travel Office review, the OPR investigation, the Public Integrity investigation, the Treasury IG investigation, the FBI internal review, Independent Counsel Robert Fiske, and Independent Counsel Kenneth Starr.

MANNER OF PRODUCTION

Please provide a document production log for all documents produced with a description of the document, the identity of the individual who created or authored the document, identify the individual and location where each document was found, identify any handwriting of any notes or notations on any document and the author of any such notations. In addition, please indicate for each item requested if you know of any document which would be responsive

and previously existed but you no longer have access to or it has been destroyed. For any documents which have been destroyed please identify the document and who destroyed it. In addition, for all documents produced to date, as well as any additional items, identify all documents which originated in Vincent Foster's office.

Subpena Duces Tecum

**By Authority of the House of Representatives of the
Congress of the United States of America**

To Custodian of Records, Executive Office of the President.....

You are hereby commanded to produce the things identified on the attached schedule before the
..... full Committee on Government Reform and Oversight
of the House of Representatives of the United States, of which the Hon. William F. Clinger, Jr.
..... is chairman, by producing such things in Room 2157..... of the
Rayburn House Office Building, in the city of Washington, on
Monday, January 22, 1996 at the hour of 5:00 pm.....

To Kevin Sabo, Barbara Bracher, Barbara Comstock, or U.S. Marshals Service
to serve and make return.

Witness my hand and the seal of the House of Representatives
of the United States, at the city of Washington, this
..... 11th day of January, 1996....

William F. Clinger, Jr.
William F. Clinger, Jr. Chairman.

Attest:

Rolain H. Carter
.....
Clerk.

BY: Linda G. Nave, Deputy Clerk

Linda G. Nave
.....

RECEIVED
JAN 11 6 42 PM '96
U.S. MARSHAL
DISTRICT OF COLUMBIA

*Accepted on behalf of
custodian of records.
Dore L. Sanderson*

Subpena for..Custodian.of.Records.....

Executive Office of the President

.....The White House.....

1600 Pennsylvania Avenue, Northwest

.....Washington..D.C....20500..

before the Committee on the.....

Government Reform and Oversight.....

.....

11 Jan 96

Served.....

James C. Sh. Butler as Receiver as

Custodian of Records Executive Office of

The President AT 1600 Pennsylvania Ave NW

WASHINGTON DC

.....

HERBERT M. RUTHERFORD III

U.S. MARSHAL

B.V. *Stephen D. McKenna*

DEPUTY U.S. MARSHAL

.....House of Representatives

DOCUMENT REQUEST TO THE
WHITE HOUSE EXECUTIVE OFFICE OF THE PRESIDENT

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7. All records related to the Treasury Inspector General's investigation of the IRS audit of UltrAir. (The investigation requested by Rep. Frank Wolf in May 1993.)
8. Any records relating to any proposal to use independent financing or unused Presidential Inaugural Committee funds to assist anyone on the White House staff, outsource White House duties or tasks, or otherwise assist White House operations. This would include records regarding any efforts, both inside and outside the White House to explore, evaluate or implement such proposal. It would also include records of any subsequent analysis of such efforts.
9. Any records relating to or mentioning the finding of the note in Mr. Foster's briefcase or any other location following his death, any Travel Office records of Mr. Foster's and any records relating to the finding of or existence of or explanations of any files of Mr. Foster's relating to the White House Travel Office matter, Special Government Employees, issues of nepotism, the use of volunteers or any efforts to obtain Office of Legal Counsel opinions on any of these matters and any records of any contacts with Mr. James Hamilton, Lisa Foster, Harry Thomason, Susan Thomases, James Lyons about Vincent Foster's records.
10. Any records relating to Mr. Thomason, Mr. Martens, Ms. Penny Sample, Ms. Betta Carney and Mr. Steve Davison and any other World Wide Travel employees including, but not limited to, all records indicating what these individuals did while at the White House, any documents relating to issues arising out of any actions they took while at the White House, any personnel records, requests for passes or pass forms, requests for office space and any forms related to office space, phones or other equipment, and any records relating to any actions taken by these individuals regarding the White House Travel Office. (For Ms. Sample, this request would also include all trip files for trips she had any involvement with while at the White House.)

11. All records about problems or allegations or wrongdoing in the Travel Office from January 20, 1993 to present.
12. All tapes or videotapes produced by Mr. Thomason or any associates of his for the White House, the Bill Clinton for President Committee or the Clinton/Gore '92 Committee and all billings and financial statements relating to such work.
13. Any tapes, tape recordings or videotapes of any kind related to the White House Travel Office, the White House Travel Office employees, or any allegations of wrongdoing by anyone in the White House Travel Office or any air charter company or other business doing business with the White House Travel Office.
14. Calendars of the following individuals:

Bill Kennedy, Vince Foster, Mack McLarty, Ricki Seidman, John Podesta, Todd Stern, Dwight Holton, Andre Oliver, Brian Foucart, Bruce Lindsey, Jack Kelly, Matt Moore, Beth Nolan, Cliff Sloan, Bernard Nussbaum, David Watkins, Catherine Cornelius, Jennifer O'Connor, George Stephanopoulos, Dee Dee Myers, Clarissa Cerda, Jeff Eller, Patsy Thomasson, Mark Gearan, Leon Panetta, Harry Thomason, and Maggie Williams

indicating any meetings, messages or discussions with any of these same named individuals among or between each other and among or between these named individuals and Susan Thomases, Darnell Martens, Webb Hubbell, Harry or Linda Bloodworth-Thomason, Larry Herman (or any other KPMG partners or employees) or James Lyons between May 1 and July 31, 1993.

15. Phone records (including message slips, phone logs, pages, or any White House records of phone calls) for the same named individuals in paragraph #14 above, making or receiving calls from any of the same named individuals between May 1 and July 31, 1993.
16. All calendars and phone records, message slips or phone logs, of the following individuals, made to or from any of the following individuals,

from May 1, 1995 through November 30, 1995 regarding the White House Travel Office matter or the case of U.S. v. Billy Ray Dale:

Jane Sherburne, John Yarowsky, Natalie Williams, Miriam Nemitz, Judge Mikva, Maggie Williams, Capricia Marshall, Patsy Thomasson, John Podesta, Catherine Cornelius, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell, Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Catherine Cornelius, John Podesta, Beth Nolan, James Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughan, any employee of the Military office, Larry Herman, John Shutkin, any employee of KPMG Peat Marwick, Billy Ray Dale, Barney Brasseux, John Dreylinger, Ralph Maughan, John McSweeney, Robert VanEimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman, David Sanford.

17. All records related to Travel Office funds and/or documents being placed in the White House military office and all records of any inquiries about related events.
18. All records of any contacts with David Watkins or Bill Kennedy from the time they ended their employment at the White House to the present.
19. All Executive Order documents located in Mr. Foster's Travel Office files and/or his briefcases.
20. All records related to Harry Thomason and/or Darnell Martens discussing or pursuing contracts with GSA, all records related to ICAP, and any records of the White House Counsel's office analyzing the issues raised by Mr. Thomason and Mr. Martens actions at the White House.
21. All records related to any sexual harassment complaints about Mr. David Watkins during the Clinton/Gore 1992 campaign or during his tenure at the White House and any records of meetings, actions, or communications regarding such complaints and all records related to the \$3,000 per month retainer provided to Mr. Watkins by the Clinton for

President campaign.

22. All records of any contacts, communications or meetings regarding the "Watkins memo" produced to the Committee on January 3, 1996 and the chain of custody of this memo.
23. All indices or catalogues of Vincent Foster's office, tapes, computer and documents and who received each document from his office.
24. All records relating to the actions of Mr. Watkins at the White House regarding the use of White House helicopters, the names of all individuals in the two helicopters used in May 1994 for Mr. Watkins golf outing and all records relating to his departure from the White House.
25. All e-mail to or from the following individuals from May 7, 1993 through May 28, 1993, concerning the White House Travel Office matter as defined in paragraph (2), the White House project, or the Presidential Inaugural Commission: David Watkins, Patsy Thomasson, Jennifer O'Connor, Brian Foucart, Peter Siegel, Paul Toback, Catherine Cornelius, Clarissa Cerda, Dee Dee Myers, David Leavey, George Stephanopoulos, Mack McLarty, Ricki Seidman, Bill Burton, Bruce Lindsey, Harry Thomasson, Darnell Martens, Maggie Williams, Capricia Marshall, Lisa Caputo, Mark Gearan, Bernard Nussbaum, Isabelle Tapia, Vincent Foster, Deborah Gorham, Linda Tripp, Betsy Pond, Bill Kennedy, John Podesta, Dwight Holton, Andre Oliver, Todd Stern, Jean Charleton, Beth Nolan, Clifford Sloan, Rahm Emanuel, Lorraine Voles, and Craig Livingstone.
26. All e-mail to or from the following individuals from June 26, 1993 through August 1, 1993, concerning the White House Travel Office matter as defined in paragraph (2), the White House project, or the Presidential Inaugural Commission: Vincent Foster, Mack McLarty, David Watkins, Patsy Thomasson, John Podesta, Todd Stern, Dwight Holton, Andre Oliver, Bernard Nussbaum, Bruce Lindsey, Ricki Seidman, Mark Gearan, Maggie Williams, Lisa Caputo, George Stephanopoulos and Cliff Sloan.
27. All e-mail to or from the following individuals from September 1, 1993

- through December 20, 1993, concerning the White House Travel Office matter as defined in paragraph (2), the White House project, or the Presidential Inaugural Commission: Mack McLarty, David Watkins, Patsy Thomasson, Cliff Sloan, Neil Eggleston, Bruce Lindsey, John Podesta, Todd Stern, Ricki Seidman, Maggie Williams, Mark Gearan, and George Stephanopoulos.
28. All e-mail to or from the following individuals from May 1, 1994 through September 8, 1994, concerning the White House Travel Office matter as defined in paragraph (2), the White House project, or the Presidential Inaugural Commission: Neil Eggleston, Lloyd Cutler, Joel Klein, John Podesta, Jane Sherburne, Sheila Cheston, Maggie Williams and Todd Stern.
 29. All records relating to the matter of United States of America v. Billy Ray Dale, any investigation by the Justice Department into the White House Travel Office matter as defined in paragraph (2), and all records relating to Billy Ray Dale as well as any records of talking points prepared about Mr. Dale to the present.
 30. All records related to the gathering of documents for any review or investigation related to the White House Travel Office matter as defined in paragraph (2). This includes, but should not be limited to, the White House Management Review, the IRS internal review, the GAO Travel Office review, the OPR investigation, the Public Integrity investigation, the Treasury IG investigation, the FBI internal review, Independent Counsel Robert Fiske, and Independent Counsel Kenneth Starr.

MANNER OF PRODUCTION

Please provide a document production log for all documents produced with a description of the document, the identity of the individual who created or authored the document, identify the individual and location where each document was found, identify any handwriting of any notes or notations on any document and the author of any such notations. In addition, please indicate for each item requested if you know of any document which would be responsive

and previously existed but you no longer have access to or it has been destroyed. For any documents which have been destroyed please identify the document and who destroyed it. In addition, for all documents produced to date, as well as any additional items, identify all documents which originated in Vincent Foster's office.

Mrs. MALONEY. I would like to ask Mr. Gray one question.

Do they keep files—this is just a personal question—on all Members of Congress? Do they keep FBI files on all Members of Congress?

Mr. GRAY. I have no idea. You'd have to ask the FBI that.

But if I could just make a comment briefly about your earlier remarks, there are some people probably that I don't know on this list, but a great many of them are known to those who are active in politics. In many ways it is a list of the next generation of Jim Bakers, and I believe that if you read just two or three paragraphs into the FBI report, I don't care who you are, you would figure out this is not someone permanently employed at the White House.

Mrs. MALONEY. If I may respond, only because he did raise an important point, I did read through the file, and I really do not know any of the people on the list, and I would venture to say you probably don't either, with the exception of the two names that I mentioned. And as he mentioned, one was a telephone operator. That is not your future James Baker. One worked for the GSA as a secretary.

Mr. CLINGER. The gentlewoman's time has expired.

I introduce Mr. Culvahouse, who was on the list, that you might be interested in meeting.

I hope that those of you who request your background files from the FBI are prepared to wait a considerable amount of time, because I am told that they are now working for requests from 1992. So it may be a while before you are able to get them.

Mr. DAVIS. Maybe we could go through Mr. Livingstone and get them a little faster.

Mr. CLINGER. Excellent suggestion.

I am now pleased to recognize the gentleman from New York, Mr. McHugh.

Mr. MCHUGH. Thank you, Mr. Chairman. I would like to follow up on a couple of questions that, quite frankly, I am still unclear on. The first is just for my own satisfaction.

How unusual is it, from the distinguished panel's experience, to engage the services of an outside detailee? Even forgetting this was a proven Democrat operative and one with a great deal of investigative experience, apparently, but to engage an outside detailee to engage in this process in previous administrations? Unusual? Common? Somewhere in between?

Ms. DANNENHAUER. Well, sir, I can only speak for the administrations where I served, and we had no outside agency detailees in our office. Now, that's not to say they might have been in some other offices. I have no knowledge, of course. But they are—I know from the past, they are traditionally used in some offices, but not in our—never in our Security Office; no, sir.

Mr. MCHUGH. Thank you.

Ms. Dannenhauer, earlier in response to a question, you said that, had you become aware of inappropriately requesting a file, you would have immediately returned it, and I believe you said, but that didn't happen. Did I hear you correctly? Through all the administrations you served on, you never had a situation with an inappropriately obtained file?

Ms. DANNENHAUER. I don't see how—nothing brings it back to my memory, because we had all these safeguards. We only asked for the things that we were already working on. We had a reason for it. We would tell the FBI what that reason was. So we wouldn't want anybody else's file.

Why would we? We were working on staff. We were working on Presidential appointees. That really energizes enough work in that office. We would not have even accepted another one even if there had been a mistake, but there was no mistake.

Mr. MCHUGH. Thank you.

Mr. Gray, you noted that it was your understanding the FBI had advised the White House during this process of supplying the files that no name checks were being done on these people. Could you—for someone who is not familiar with the process, what should that have told the White House was happening? What does it mean when you say that no name checks were occurring?

Mr. GRAY. That they were asking for these files with no apparent reason to do anything with them in terms of getting the individual involved cleared for access to the White House, because in order to clear anyone on that list of 400, you would have had to do a name check at least to update, to bring forward, fill in the missing years between that person's last date of service. And if they weren't doing that, then what were they doing with the file if they were not updating it?

Mr. MCHUGH. So from your experience, if this was a bureaucratic snafu, the FBI's notification to the White House that no name checks were occurring should have been a clear message that something was awry and amiss and that they should follow up and see what was going to, and yet they failed to do that. Is that is a fair statement?

Mr. GRAY. Clear message? I don't want to get into the qualitative—it certainly was a signal that something was a little unusual.

Mr. MCHUGH. Thank you.

Ms. Gemmell, you noted in a previous question that you saw what you believed to be the list provided by the Secret Service. You then noted you didn't hand that over to anyone because you didn't know who was going to be performing this function; is that correct?

Ms. GEMMELL. That is correct.

Mr. MCHUGH. The list that you saw, to the best of your recollection, does it correlate to the names we have seen out here? Did that list comprise over 400 names of Republican employees of the White House of the past administrations, or was that a totally different list? Do you recall that?

Ms. GEMMELL. Sir, to begin with, the particular portion of that list that would have housed these names was not being worked on, but the actual size of the list would have been far greater than 400 names, sir.

For an example, it would have also included all of the staff members serving at Office of Management and Budget, Office of Administration. In other words, it would have included all of the Executive Office of the President offices.

Mr. MCHUGH. So then it would be your impression that the list we are dealing with now, the 400-plus names—at least that is what

it is for the moment—was a—to be charitable, a refinement of the Secret Service list that you were familiar with. There have been other lists, I understand that, but the Secret Service list you were familiar with?

Ms. GEMMELL. Yes, sir; 400 names would have been just a portion of that huge printout received.

Mr. MCHUGH. And not in the disposition; in other words, not by office but strictly alphabetical, which is contrary to how those lists are supplied, too; is that correct?

Ms. GEMMELL. Yes, sir. The breakdown of the list is by division first and then alphabetical within the division.

Mr. MCHUGH. So this bureaucratic fumbling was, from your perspective, a winnowing down of the list from what you feel are thousands to mere hundreds, was, if bumbling, a rather artistic effort to direct some specific inquiries on some very specific people that just remarkably happened to be Republicans, A through whatever? Is that a fair statement?

Ms. GEMMELL. I really feel that I can't comment, sir, since I wasn't there.

Mr. MCHUGH. Would you disagree with what I said? Would you disagree with that as a theory?

Ms. GEMMELL. Not in totality; no, sir.

Mr. MCHUGH. Thank you very much.

I yield back.

Mr. CLINGER. The gentleman's time is expiring, and now I am pleased to recognize the gentleman from Vermont, Mr. Sanders, for 5 minutes.

Mr. SANDERS. Thank you, Mr. Chairman.

I would like to make a brief statement, and that is that this is clearly a very serious matter. But whether it was a bureaucratic mistake or a politically motivated one, Americans have a right to privacy, and FBI files contain very serious, private, and possibly derogatory information that individuals would not want to be read by anyone not needing it for security purposes, and certainly not by politicians who may could have the potential to leak that information to the press.

It is my understanding that they contain medical files, credit history, and interviews with family members and close friends. They document sensitive issues about someone's history that is nobody's business but their own. And I am very concerned that competent procedures and security personnel may not be in place at either the White House or the FBI to protect these sensitive files.

I hope these hearings point out where the problems lie and we can assure the public that their privacy will be adequately protected and this abomination will not happen again.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Bernard Sanders follows:]

PREPARED STATEMENT OF HON. BERNARD SANDERS, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF VERMONT

This is a very serious matter whether it was a bureaucratic mistake or a politically motivated one. Americans have a right to privacy and FBI files contain very serious, private, and possibly derogatory information that individuals would not want to be read by anyone not needing the information for security purposes, and certainly not by politicians who may leak the information to the press. It is my under-

standing that they contain medical files, credit history, and interviews with family members and close friends. They document sensitive issues about someone's history that is nobody's business but their own.

And I am very concerned that competent procedures and security personnel may not be in place at either the White House or the FBI to protect these sensitive files. I hope these hearings point out where the problems lie and we can ensure the public that their privacy will be adequately protected and this abomination will not happen again.

Mr. CLINGER. Thank you, Mr. Sanders.

I am now pleased to recognize the gentleman from California, Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman.

I think as we have listened to this and we have read the papers and we have read some of the briefings, it is very clear that there is a breach of trust of the citizens of this Nation who serve their country when their most sensitive personal history is perused for seemingly political persons. And, Mr. Chairman, I would like to have my statement put in the record at this point so that I can pursue some of these questions.

Mr. CLINGER. Without objection.

[The prepared statement of Hon. Stephen Horn follows:]

PREPARED STATEMENT OF HON. STEPHEN HORN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF CALIFORNIA

Thank you Mr. Chairman.

The actions we are considering today are most disturbing. As you noted, the White House has provided a new accounting of its behavior every time another revelation about the examination of the files occurs. This troubles me as it should trouble every American. It is a breach of trust of the citizens of this Nation who serve their country when their most sensitive personal history is perused for seemingly political purposes. This outrage is worsened by the fact that this information was provided with the understanding that the information would be used solely for the purpose of determining their suitability for the job. It was not intended for the purpose of being used to disparage them at the whim of political operatives.

Mr. Chairman, trust is the basis of our great democracy. In fact, it is the very thing which has kept this Nation strong. We trust our government to function on the principles supported by those who have fought and died for its existence. The American people trust those they elect to do the true and right thing. When this trust is compromised, the very foundation of our society is placed at risk.

That is why the issue we are examining today rises above politics. Notwithstanding the allegations of our colleagues on the other side, this is not a political witch hunt; our objective is not to bring down the President and weaken the democracy. Rather, we simply seek the truth. We are acting on the faith placed in us by the American people to ensure that our Nation remains both strong and true to the virtues which constitute its foundation.

Unfortunately this administration does not seem to understand the concept of trust. It appears the concept of trust means to them that when a fact which might be injurious to the administration is uncovered you obfuscate. It seems that the term "trust" is interpreted by them to mean that when it is revealed that a political operative is assigned the task of reviewing sensitive Government files, you contend that a routine government function is occurring by examining the files instead of acknowledging that you have actually tasked a political operative with the responsibility of searching for "derogatory information." Since the revelation of the violation of privacy of Reagan and Bush White House appointees, the Clinton administration has engaged in an effort to hide the truth. Mr. President, do yourself and the American people a favor—simply tell the truth. Believe me—it is quite refreshing for this democracy.

Mr. Chairman, the witnesses before us today will be very helpful in our effort to appreciate the allegation of abuse of authority by this White House. It is imperative that we assure those who, in many instances, have sacrificed to serve this Nation know that any allegation of abuse related to their service—abuse to their privacy—will be thoroughly examined.

Mr. HORN. As I understand it, the Secret Service has briefed several members of the other body, that they have checked, and there were no glitches in their computers, and that these lists of White House personnel were always available, so it was easy to cross-check the list we are talking about versus who is involved on the White House personnel that needs clearance to get into the White House.

I am concerned, my staff director of the subcommittee I chair, Government Management, Information, and Technology, Russell George, happens to be on that list. He was a Bush White House appointee. And so my colleague from New York who mentioned that list, there are a lot of people whose names we recognize on that list, and they have been involved in politics and particularly in service to their country.

Now, as I recall the numbers—and I have watched this from Eisenhower up—there are generally 3,000 Presidential nominees that the President nominates. There are 300 that they seriously work with, and the Counsel's Office, I am sure, is involved.

As I said the other day, I think personally the President ought to sign the list, not go through every file but sign the list that goes to the FBI on a request for files. I have worried since—well, since I guess I came to this town in the late fifties. I wasn't worried about Eisenhower; I was worried about most people since in terms of the groupies they get on the White House staff that might like to go and see what this operative is doing or that operative and the degree to which they have access to these files.

And I am really amazed, very frankly, that the White House Counsel didn't put their name on it with a signature. I think that is minimal. Not just typed forms should be going to the FBI, but somebody ought to look at this list in the Counsel's Office and get your signature on it, and not your secretary signing your signature, which we know happens on the Hill as well as happens in the executive branch.

I guess I will ask you, would you have known, any of you that were in the White House, if the President of the United States requested an FBI file or his Chief of Staff? They didn't necessarily have to go through you. They could pick up the phone and say, "I'm the President; I'd like to see that file;" "I'm the Chief of Staff; I'd like to see that file." How do you make sure that all of those requests go through your office?

Mr. GRAY. We had a rule, which I think we inherited from previous administrations, that no one in the White House—of course, I suppose the President could do it, but no one else in the White House, certainly not the Chief of Staff, could go and talk to the Department of Justice, and certainly not the FBI, without going through us. And we, in turn, would have to go through the Attorney General or the Office of Legal Counsel, or the Associate—there were rules about who we could talk to and who we couldn't. I couldn't even, and never did, talk to the FBI, except through the established channels that we had for the spin unit or whatnot.

Mr. HORN. Let's put the question this way: Do any of the five of you know of requests for files by the President of the United States, any of them with whom you served, or the Chief of Staff

to the President, which requests were made outside the Counsel's Office?

Mr. GRAY. No, sir.

Mr. HORN. No? No?

Mr. CULVAHOUSE. No, sir.

Mr. HAUSER. I'm not aware of any, and I'm sure we would have been advised by the FBI if there had been such a question.

Ms. DANNENHAUER. No, sir.

Ms. GEMMELL. No.

Mr. HORN. No? All right. At least in the period that you served—which is essentially the Johnson administration, through Bush?—it seems to me you can, at least based on your knowledge.

Now, we haven't heard from the FBI, and I guess my next question would be, did the FBI ever request the return of any of these files, any of your files that you had taken?

In other words, as Mr. Kanjorski found out, once those files go to the White House, they are not a copy of the original file, they are a copy of the summary of that file. Now, I take it the summary is made by the FBI and then sent over, so none of you have really gone over to check what the raw data was versus what the FBI said the summary was.

Mr. GRAY. On very rare occasions, we would look at the raw data.

Mr. CULVAHOUSE. With one exception, on judicial nominees which go through a slightly different process, you do get all the raw data. It is my experience that the summary we would get would contain any derogatory information, and that's what we would often go back and ask—

Mr. HORN. I'm sorry; the summary would do what?

Mr. CULVAHOUSE. Would contain all derogatory information.

Mr. HORN. Derogatory information. OK.

Mr. CULVAHOUSE. I would be very surprised if that got edited out at all.

And in reference to what happens to the files, I think the Presidential Records Act literally requires those files to go to the Presidential library. It is all-inclusive. When a President leaves office, the White House, there is no paper with writing on it left. That is probably a flaw in the Presidential Records Act.

Mr. HORN. I am sympathetic to a lot of that. On the other hand, when you have a, quote, permanent, unquote, staff that has worked there from 5, to 10, to 15, to 30, to more years, I don't know why those personnel files, if you would, are not left for the President that comes in.

Now if the President comes in, as you know, they are free to fire anybody they want. These are pleasure appointments. But generally they keep people with competency between administrations. This administration seems to have dipped down more than most, but generally those people that are the gardeners, the head ushers—head ushers come and go too, as we know in a few cases. But generally those are the people that make that place run. And it isn't the OMB top officials or the White House top officials. I can see taking those files or I can see sending them back to the FBI in either case.

But I guess I am concerned that, you are looking just at summaries. I would want to see more if I was reviewing somebody, and you are saying they do that for judges, but I would sure want to see them for Cabinet officers if they were in my Cabinet. I would want to look at that file.

In previous administrations, the Eisenhower administration in which I served, I know that when a Cabinet Secretary had a question on something, he went over to the FBI to look at the file. The file was not sent over. And sometimes the Secretary was right and the FBI was wrong.

Mr. CLINGER. The gentleman from Wisconsin, Mr. Barrett, for 5 minutes.

Mr. BARRETT. Thank you, Mr. Chairman. And, Mr. Chairman and Ms. Collins, I want to thank both of you for holding these hearings. I think this is extremely important that these hearings be held. This is a serious matter, and I think one of the appropriate roles for the Government Reform and Oversight Committee is to hold the hearing on exactly this type of issue to find out what the problem was.

I think any time you have this easy access to FBI files that all Americans should be concerned, and I think it is appropriate for us to determine exactly why these files were released, and I am happy that we are doing that.

I think as we look at this, it is important to note that the President has apologized for this. The President recognizes also that this is a serious matter. Leon Panetta recognizes it is a serious matter.

I see today that Mr. Panetta announced that the White House is restructuring its personnel security functions by incorporating them into the Security Office of the Executive Office of the President. I think that that shows again that the White House recognizes that this is not a matter to be taken lightly.

I think that our role also has to be to find out what was the reason these files were requested. I think it is important for our committee to be doing that, and I think, equally important, our committee should be working aggressively to make sure that this type of mistake doesn't happen again.

I think, frankly, that the FBI bears a little of the fault as well. I know that the Director of the FBI was critical both of the White House and his own agency, and I think appropriately so, because I think that the FBI has to be mindful of the personal liberties of our American citizens.

Mr. Culvahouse, why do you think you were on the list?

Mr. CULVAHOUSE. My name starts with a C, and I served in the Reagan-Bush White House.

Mr. BARRETT. Mr. Gray, why do you think you weren't on the list?

Mr. GRAY. Because they went through G-O and stopped. They didn't do any G-R's, and G-R-A would have been pretty high on the list. But it is possible Wendy Gramm would have been the next person, but they stopped at G-O, thank God.

Mr. BARRETT. Do you think that there are more bad guys whose names begin with A and G-O than people whose names begin with G-R through Z?

Mr. GRAY. One reporter, that I will not identify, he said, why do you think it stopped there? And I said, I have no idea. And he said, do you think yours was the first name that was recognized? And I said, that is very flattering, eat your heart out, Jim Baker. But he said, until we know more, why don't you just claim credit?

But I have no idea. In all seriousness, I have no idea.

Mr. BARRETT. Mr. Culvahouse, any reason why you think they went A through G—O and then stopped at G—R?

Mr. CULVAHOUSE. Well, at this time I accept the explanation that someone recognized that there was a problem. What is mystifying to me, however, is why they kept the files if they recognized there was a problem.

I think had it not been for the efforts of this committee, at the end of the Clinton administration, whether it is next January, or January four years hence, our files would be on the way to the Clinton library without us ever knowing that they were there.

Mr. BARRETT. Ms. Dannenhauer, why do you think they went A through G—G—O? Excuse me, Mr. Gray.

Ms. DANNENHAUER. I wouldn't have any idea, no, sir.

Mr. BARRETT. Ms. Gemmell.

Ms. GEMMELL. It is inexplicable. I would not know.

Mr. BARRETT. Any thoughts as to how the A to G mystery occurred?

Ms. GEMMELL. No, sir, not at this time.

Mr. BARRETT. Mr. Hauser?

Mr. HAUSER. I have no idea. What is mystifying to me is—

Mr. BARRETT. That is fine. I appreciate that.

I mean, I don't see any sinister motive in going A through G, as I said. If there were people who are not popular, I assume there are as many people who are not popular whose names begin with G—R as begin with C. So I don't—I guess I conclude from that that this could be a, just a screw-up, frankly, in terms of returning the documents.

For me, this whole issue of whether the White House, even in its archives, should hold these documents or have them be made public for 20 years and then held private and then released in 20 years, I frankly think that we should, as a committee, be looking at that issue.

Whether it is a Republican White House, a Democratic White House, or Mr. Sanders gets the White House, an Independent White House, I think that people, just because they have wanted access of one form or another to the White House, 20 years later having their FBI files released, I don't know that that is an inappropriate price for them to pay. I would ask that we look at that as a committee.

Mr. CULVAHOUSE. Just one point. We had a discussion amongst ourselves. We don't know whether the requirements of the Privacy Act would trump the general 20-year release standard under the Federal Records Act.

It may be that—and there are probably experts at the archives who could tell you this—it may be that the Privacy Act requirement would forever protect these records and that they would not be subject to the general 20-year release standard of other White House documents, documents under the Presidential Records Act.

Mr. BARRETT. Again, I think—if there is an FBI file on me, which this might be, I certainly would want to make sure that the Privacy Act trumped that.

The last question I have of Ms. Dannenhauer, how many records are we talking? Here we are talking 400 people; 400 out of how many have been requested? What percentage of the files requested do these 400 constitute?

Ms. DANNENHAUER. Again, sir, I would not know because I wasn't there.

Mr. BARRETT. But you were there over a number of years. Maybe you can give me a rough annual—I assume in the beginning of an administration you would have far more requests on a monthly basis than you would in the third or fourth year. Are we talking 2,000 requests a year, are we talking 5,000 requests a year, 10,000 requests a year?

Ms. DANNENHAUER. I cannot recall, sir, but I did see actually some numbers in the papers about the number of name checks going over to the FBI, and I believe that was reported in the paper and it had the numbers by month, I believe I saw. But as far as the lists are concerned, only Secret Service would be able, I think, to accurately answer that question.

Mr. BARRETT. Can anybody answer that question on the committee?

I yield back my time.

Mr. CLINGER. The gentleman's time has expired.

I think the record should note that Director Freeh's report did indicate that there was an inordinately high number of requests during that period of November through January 1994.

I am now pleased to recognize the gentleman from Florida, Mr. Mica, for 5 minutes.

Mr. MICA. Mr. Chairman, and my fellow committee Members, we have to really go back to see why we are here; that is, because we were looking at Travelgate which involved the abuse of the FBI and the IRS in the firing of the White House Travel employees.

The reason we are here also is we requested 3,000 pages of documents, most of which we know exist because of other materials we have obtained, and we have been denied those documents for 2 years. I think we had a bipartisan subpoena to get those documents.

We also were involved in passing this contempt citation on Mr. Quinn, the Legal Counsel, asking him to produce the documents, which he still has not done. And by way of getting 1,000 pages and holding off on this contempt citation, we still have two-thirds of the documentation relating to this affair missing.

Mr. Chairman, I am calling on you again, I am going to call on the Speaker, and I am going to bring the matter to the floor of the House, that we pursue this contempt citation. This isn't a matter of national security, it isn't a matter of national policy; this is a matter of abuse within the White House. So I wanted to start with that statement.

Then I have some questions. Let me just try to get to the heart of this.

First of all, was it right or was it totally wrong for the White House to request these files? Was it right or wrong?

Mr. GRAY. I think it was wrong.

Mr. MICA. Wrong.

Mr. HAUSER. It is wrong because——

Mr. MICA. That was the initial infraction.

Mr. HAUSER. It is wrong because these are not current employees; because there is no basis and no consent.

Mr. MICA. That is right. Was it unprecedented to request a blanket list like this of former White House employees? Do any of you know of this ever being done before?

Mr. HAUSER. Well, Ms. Dannenhauer has already testified that it never occurred.

Mr. MICA. No one knows of it ever being done?

Mr. HAUSER. I am not aware of it.

Mr. MICA. The other point is the White House at one point said the Secret Service provided the list. You testified, Ms. Gemmell, that you have never seen a list like this before. This wasn't a Secret Service-type list that you are familiar with?

Ms. GEMMELL. We did receive a list from Secret Service for processing.

Mr. MICA. But this list that you may be familiar with, you have not seen anything like this provided on former employees of an administration?

Ms. GEMMELL. No, sir. No, sir.

Mr. MICA. And also, it is unprecedented, that access to files in this manner. Did any of you see interns running around or detailees involved in this process before?

Mr. CULVAHOUSE. No, sir.

Mr. MICA. Again, you testified that you saw this happen and you—how long were you there during the Clinton administration?

Ms. GEMMELL. Until August 13, 1993.

Mr. MICA. So you were also then involved in their initial clearing of passes for the White House; would that be correct, security clearances?

Ms. GEMMELL. For the new staff members, yes, sir.

Mr. MICA. For the new staff members. And did that proceed in the same fashion as previous reviews that you were familiar with?

Ms. GEMMELL. Yes, sir, it did.

Mr. MICA. It did. But this was unprecedented that in fact there was access by detailees—well, I want to say interns at this point; is that correct?

Ms. GEMMELL. Yes, sir. It was a first-time occurrence.

Mr. MICA. OK. Is it standard procedure, or was it standard procedure—to the counsels, former counsels—for non-White House employees to personally review FBI reports? Were you ever aware of any non-White House employees in the White House reviewing any of these?

Mr. GRAY. No.

Mr. MICA. Were you aware of it?

Mr. CULVAHOUSE. No, sir, other than the Secret Service who reviewed it for Presidential security purposes.

Mr. MICA. Secret Service.

Were you aware of any?

Mr. HAUSER. No, sir. The only thing I might think of is that there might be another security officer from another agency who had a need for some limited purpose. Other than that—

Mr. MICA. But non-White House personnel within the White House, had you ever seen this happen before?

Mr. HAUSER. No.

Ms. DANNENHAUER. No, sir.

Ms. GEMMELL. No, sir.

Mr. MICA. Are any of you aware of a detailee being brought into this process? Were you aware of a detailee ever being brought into this process?

Mr. GRAY. No, sir.

Mr. MICA. Were you aware of a detailee?

Mr. CULVAHOUSE. No.

Mr. MICA. Were you aware?

Mr. HAUSER. No.

Mr. MICA. Were you aware?

Ms. GEMMELL. No.

Mr. MICA. Were you?

Ms. DANNENHAUER. No.

Mr. MICA. Now, if a detailee came in that had this type of political background, would that have been some concern, and had access—you are aware of Mr. Marceca's background, very political, we have now found out.

What would be your reaction if someone came in like that? Would you have raised some questions about his or her access?

Mr. GRAY. Well, I would have thought that I would have been responsible for hiring him, and since I wouldn't have hired him, I don't know how I would have reacted.

Mr. MICA. What would you have done, Mr. Culvahouse?

Mr. CULVAHOUSE. I would have told him to go work for the White House Office of Political Affairs and not my office.

Mr. MICA. And what would you have done if a person of this background—and certainly someone would have checked out this person's background, in fact, if they were coming into this sensitive area.

Mr. HAUSER. I agree with Mr. Culvahouse; he would have been better suited for another office in the White House.

Mr. MICA. And, of course, you two were not in a position, but was that acceptable?

Ms. GEMMELL. Yes, sir. It would not have happened.

Ms. DANNENHAUER. No, sir, it would not have happened.

Mr. MICA. Finally, Mr. Culvahouse, Mr. Freeh said that the FBI was victimized. I am Chairman of the House Civil Service Subcommittee; I oversee Federal employees, whether they are in the White House as political employees or whatever. They have some rights under Civil Rights and the Privacy Act.

He said the FBI was victimized. Weren't past employees victimized? Weren't you victimized, and wasn't the Privacy Act victimized?

Mr. CULVAHOUSE. Yes, sir.

Mr. CLINGER. The gentleman's time has expired.

[The prepared statement of Hon. John L. Mica follows:]

PREPARED STATEMENT OF HON. JOHN L. MICA, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF FLORIDA

Thank you Mr. Chairman. I'm pleased we are holding these hearings this morning, and I applaud you and your staff for the time and effort dedicated to this matter. Were it not for this Committee's determined pursuit of the truth, this deplorable incident might never have seen the light of day. I would also like to take this opportunity to reiterate my belief that we should move forward as quickly as possible with the contempt citation. It is critical that we secure all of the remaining documents so that we may establish the full sequence of events and hold the appropriate people accountable for any and all improprieties in these actions.

Mr. Chairman, as Chairman of the Civil Service Subcommittee, I have a distinct responsibility for this matter. The violation of federal employees' privacy rights, and the potential misuse of sensitive investigative files demand effective scrutiny by this Committee. It is not sufficient to hold the highest officials accountable for their actions. Each employee responsible for these files must know that, when an improper request comes in from someone claiming a White House connection, their duty is to protect the privacy of the files they hold. Each federal employee is ultimately accountable to the people whose rights need protection, not the people who temporarily serve in powerful positions.

Title 3 of the United States Code grants the President broad authority to recruit and retain the personnel whom he needs to run the Executive Office of the President to the best of his abilities. The President has the authority to request that employees be detailed from agencies to provide appropriate expertise, and he is allowed to reimburse a wide range of experts and volunteers. Wide discretion is provided with the expectation that it will be used judiciously. When discretion has been abused, Congress must review the powers that have been granted in order to develop corrective measures.

The current controversy, involves a "detailee" who, had access to highly sensitive information. This abuse of confidential files appears to reflect personnel management practices that lack effective accountability. This egregious invasion of the privacy rights of over 400 individuals demands a swift and certain response from this Committee. Unfortunately, it is not an isolated incident. It reflects a persistent pattern of abuses. The willingness of the White House to abuse the FBI to further its malicious firing of Travel Office employees has strong parallels to its abuse of the FBI to violate the privacy of the loyal Americans who served previous presidents.

This White House, rather than come clean, has obstructed every effort to provide justice for the victims of its transgressions. I reaffirm my support for your efforts to identify necessary corrective measures and to ensure that appropriate accountability is achieved within this White House. This contempt citation is a necessary step in reestablishing integrity in our government.

Mr. CLINGER. I now recognize the gentleman from Virginia, Mr. Moran, for 5 minutes.

Mr. MORAN. Thank you, Mr. Chairman.

Mr. Chairman, I still think that this is primarily a partisan political effort to embarrass the White House, and that it has yet to be determined whether there is any real substance to the allegations of malfeasance. In other words, deliberate wrongdoing versus misfeasance, which is simply clumsy incompetence.

I suspect that if the Bush administration hadn't cleared out virtually all of the files, but instead had cooperated with the incoming administration the way in which the Carter administration cooperated with the Reagan administration during the transition, that this stuff may very well never have occurred.

But, Mr. Chairman, I need to use my time to settle a score with Mr. Dale.

Since Mr. Dale's dismissal is really the *raison d'être* for all of this stuff that has come to light, had Mr. Dale not been accused of wrongdoing after his dismissal, we never would have gotten into any of this.

At the last Travelgate hearing, I implicitly accused Mr. Dale of the crimes for which he was indicted. His daughter followed me

down the hallway after that hearing. I was not responsive to her because I would assume that any daughter would defend her father under any circumstances.

But last week I was on a TV debate show, one of these CNN things with Mr. Dale, and afterwards he confronted me in which I guess you would call, an intense and personal way; he was obviously very angry. But what struck me was not so much the intensity of his anger as the fact that it was the reaction of somebody that has been falsely accused.

I lay out that context to explain why I didn't make the effort to contact other people that perhaps I should have until last week. I have just assumed that what I read in the papers and have been provided in terms of background material was sufficient. But I have subsequently talked to people over and under and around Mr. Dale while he served several administrations. And as a result, I have come to the inescapable conclusion that, in fact, Mr. Dale is an honest professional who was, in fact, falsely accused.

I say that because it needs to be said, and others in fact have said it and have not been heard. And most of the people that I have talked to, I have to say, are actually Democrats, many of them worked for the Carter administration.

I do think that since being accused, Mr. Dale has pursued his intent to seek vengeance on the Clinton administration with remarkable success, but I am not sure that most of us would not have done the same under similar circumstances.

So since that is the source of much of our hearings, I feel that it is only right to say what I believe now to be the case.

Now, since I have a little time left, let me ask Ms. Gemmell particularly.

If the explanation that we have heard, basically that these two folk, Mr. Marceca and Mr. Livingstone over him, were given information that the list, Secret Service list which was deficient in terms of background summary, FBI file information was available and apparently was available in this vault, is it not possible that without any intent to do wrong they accessed this list and went about filling in these forms, because people who were both on the active and inactive list were on this list, that the Secret Service initially had put it together.

That is their explanation; that they learned of this list and that, in fact, the reason they were assigned to doing it was that we had far too many people who had access to very sensitive information who had never been adequately investigated by the FBI. And so they were told by Mr. McLarty, get on the stick, get these files filled out; we can't have all of these people running around without clearance having been provided, and this was just part of that effort, although it was much too inclusive a list and many of whom were inactive people. And the list that then we subsequently get was a list that had been where these people, who never should have been looked into, were called by the person that came in afterwards, a Clinton person, to correct this, and that was given to the committee. Now, that is their explanation.

Can you tell me that that is not possibly true? Is there any reason to believe that that could not have been the case, been the explanation for all of this?

Mr. CLINGER. The witness can respond, but the gentleman's time has expired.

Ms. GEMMELL. The only way I know how to respond, sir, is that once again, knowing the young people that were in the office at the time, typing those standard forms being used as the request forms, I do believe that they would not have had the experience to have the name recognition.

Mr. CLINGER. The gentleman's time has expired.

Let me thank the gentleman for his graciousness. And I am sure Mr. Dale is appreciative of that civility on the part of the gentleman from Virginia.

I now recognize the gentleman from Massachusetts, Mr. Blute, for 5 minutes.

Mr. BLUTE. Thank you very much, Mr. Chairman.

I want to commend you for having these hearings, and in a larger sense commend you for your steadfastness and commitment to getting to the truth on the issue of the Travel Office firings and the other issues that have come before this committee.

The truth is the *raison d'être* of this committee, and that is our job for the American people, to provide oversight on the executive branch, and I think under your leadership this committee has done a very good job in getting to the truth.

It seems to me that the issue here is the—and as I think Mr. Culvahouse mentioned, the culture under which you operated your office and your responsibilities versus the culture that existed in the Clinton administration that would allow such a thing to occur.

You clearly, under both Democrat and Republican administration, had a culture of responsibility, and a culture of sensitivity to the importance of privacy issues with the materials that you have the responsibility to deal with, and unfortunately, it seems, that this administration did not set that culture of responsibility, and indeed, there was a lack of sensitivity to the importance of privacy questions on these important documents.

I want to ask you how, and I think it is important to the American people to understand, how these records are used? You get summary of FBI background checks that are extensive and thorough; you review them, and you make judgments thereto about the person that you are reading about. I wonder if you could explain how you used these documents to make a judgment about whether somebody should get an FBI clearance or not?

In other words, does the FBI make recommendations?

Mr. GRAY. The FBI does not make recommendations. The FBI does not pass substantive judgment. That is left to us to do. And it differs from administration to administration, from president to president. But basically, it is fairly common sense.

You see a pattern of, say, drunk-driving, you see a pattern of shoplifting, you see heavy drug use and you say, gee, whiz, this person probably ought not to be in this shop. I mean, we could go on for hours talking about it, but it is a common sense sort of walking your way through: Who would you entrust with national secrets, who would you trust to vindicate the public good and to make your boss look good? I mean, it is a fairly straightforward thing.

Mr. CULVAHOUSE. Likewise, Congressman. As a result of—I mean, we have all made mistakes, and as a result of the “Ill Wind” indictments, we went back and tried to figure out where we had gone wrong in approving some Assistant Secretaries of the Air Force, or whomever, that ultimately found themselves in trouble, and you will see a pattern.

You will see a pattern of people not paying taxes on time consistently, a pattern of poor credit records, of disrespect for authority, and some people that maybe have the right political connections, but are not the kind of people who ought to be occupying positions of responsibility or ought to be in the same room with the President of the United States or the Prime Minister of Great Britain.

Mr. BLUTE. And your feeling is that the information that you are viewing is so sensitive that you would not, I think someone testified, you would not even tell the President of the United States why you are recommending that this person not be given clearance?

Mr. GRAY. He insisted with me, I think on two or three occasions, that I give him a glimpse, not at the document, but I give him a hint of what it was about, and he quickly backed off and said, I don’t want to know any more.

Mr. BLUTE. But that wouldn’t be a standard request?

Mr. HAUSER. No. And I think I testified that these files are not shared with anyone at the White House, other than the White House Counsel’s Office. And our concern, Mr. Blute is, that when there is a breach of privacy, for whatever reason, that the usefulness of those reports is going to be diluted in assisting the President to discharge his functions to staff his administration, and that is a real concern.

Mr. BLUTE. My other question relates to the personnel matters within that office, within your office. Obviously, Ms. Dannenhauer and others have performed their role admirably and well, but that is the responsibility of the legal counsel to oversee that entire operation; is that correct?

Mr. CULVAHOUSE. Yes, sir.

Mr. GRAY. Correct.

Mr. BLUTE. Let me ask you something that was reported recently in Time Magazine. This week they are reporting that three former Clinton administration staff members have said that Mr. Livingstone had a habit at various cocktail parties and others places of insinuating that he had read their security files. Now, I am wondering what would be your reaction as the Legal Counsel to the President of the United States if someone made it known to you that someone within your purview, within your office who had access to secure files, was speaking of these files in a cavalier way out there? What would be your reaction to that?

Mr. GRAY. I would hope that the individual who heard this would have come to me or one of us and said, you know this is happening, and then I hope I would have fired the person immediately.

Mr. BLUTE. Would that be a serious breach of the security of your office?

Mr. CULVAHOUSE. Yes, sir.

Mr. HAUSER. Absolutely. I mean, that would have been just an outright breach of any discussion outside the confines of the Counsel's Office.

Mr. BLUTE. Well, Mr. Chairman, I think what we have here is, as I said earlier, a culture of irresponsibility and a lack of sensitivity to the importance of this—the privacy matters that this office deals with, and I think this report just further exemplifies that lack of responsibility.

I yield back the balance of my time.

Mr. CLINGER. I thank the gentleman.

I will now recognize my colleague from Pennsylvania, Mr. Chaka Fattah for 5 minutes.

Mr. FATTAH. Thank you, Mr. Chairman.

Mr. Gray, is there any reason, based on all of our experience, to think that the Secret Service is a political operation in any way, or a professional operation? How would you characterize them?

Mr. GRAY. Highly professional.

Mr. FATTAH. So if they developed a list that they submitted for any purpose, that would have been strictly professional, the make-up of that list?

Mr. GRAY. That would be my instinct, yes.

Mr. FATTAH. OK. And just based on your impressions and your work and your long experience with the FBI, that is a professional organization, too, would you characterize them?

Mr. GRAY. Absolutely. Highly professional.

Mr. FATTAH. So that if we would take from what Ms. Gemmell has said, that this list, let's take—assume that this was the list that the Secret Service had produced and was placed in the vault, these new employees came in, they got the list, they sent it over to the FBI, that there was nothing that either the Secret Service did wrong in producing the list or that the FBI did wrong in submitting the reports; it was only the judgment of the White House personnel, Livingstone and this detailee, that really is in question here. Is that fairly correct? You are not questioning either the FBI's role in this or the Secret Service's role.

Mr. GRAY. Not the Secret Service, although, I still don't understand where the list came from. But as to the FBI, I think Director Freeh as said that it raised questions in his own report, in Shapiro's report about—

Mr. FATTAH. Right, but you said earlier in your own testimony that, well, maybe, they accidentally—that is understandable, you don't ascribe any untoward motive to either of those entities?

Mr. GRAY. No. One way or the other, I just don't know, sir. But once having gotten the files, I don't see how they could have read through them.

Mr. FATTAH. How the FBI once they had gotten the files?

Mr. GRAY. The White House.

Mr. FATTAH. That is what I am saying, I am trying to center in on this, that the real issue here is these employees at the White House, that the detailee and Mr. Livingstone, and their actions, once they had gotten the files from the FBI.

Now, there has been a lot of comments about the fact that they had political reputations and had previously been involved in partisan political activity.

Now, many Members of Congress have been involved in partisan political activities, yourself, others. You are not saying that as a general course, people who have been involved in politics somehow can't act in professional ways.

Mr. GRAY. Absolutely not, sir. I said in my testimony that I am political in the largest sense, myself. All of us are.

Mr. FATTAH. So it is not because of their political leanings that you questioned whether we should have some concern about their activities, it is whatever they did with the files?

Mr. GRAY. No, sir. I think there is question about whether you would bring a detailee in from outside, not responsible to the White House Counsel who had a background of being a political operative, which I don't think I have, I hope, sir, maybe I do, but as being a political operative in campaign activity and what not, that is—

Mr. FATTAH. OK. I want to follow this through. So you think that people being involved in political campaigns somehow creates a dynamic in which they can't act professionally in a work environment?

Mr. GRAY. No, I didn't say that, no, sir. I said that this particular individual, given his background as a detailee, not apparently responsible to the Counsel of the President, that is what gives me—

Mr. FATTAH. You are aware that—well, you may not be aware. Let me say that here in the House we have people in the Speaker's office, others who have been detailees from the military and other operations who are doing important work on behalf of the Congress, people who have at times have had political means. Most Americans I guess at times have had political means, may have been active in campaigns.

I guess the point I am trying to get at is that the real issue here is not the list that was created by the Secret Service or the FBI creating the files and sending them over, or even the political background of these two individuals, but the real issue for the committee, it would seem in our search for answers, is to try to figure out whether anything improper was done, other than an accidental mistake in terms of not having the list updated.

Now, whether that was the Secret Service's responsibility to make sure that they had an additional updated list, or whether it was their responsibility, somewhere in the midst of this there was an outdated list that was being used to order these files.

But the question becomes once these files came in, whether anything improper happened—and we will have to have another panel, obviously none of you can comment on that. But you all have had a great deal of experience.

Let me try to ask a different question, because as we beat up on this White House about making this mistake, I am interested, given your long experience, and I guess Ms. Gemmell, you have had the most experience of anyone at the table working in the White House, have you seen any administrations that have been mistake-free?

Mr. Gray, in the administration that you worked in, was it mistake-free?

Mr. GRAY. No. Everybody makes mistakes, but, sir—

Mr. FATTAH. Mr. Culvahouse?

Mr. CULVAHOUSE. Every administration makes mistakes.

Mr. FATTAH. Did the administration that you worked in, did it make a mistake, too?

Mr. CULVAHOUSE. Absolutely.

Mr. FATTAH. I think that we all know the answer to that question.

And so as we go forward, looking at this matter, what we should be, it seems to me, concerned about, Mr. Chairman, is looking at whether there was any improper use of these files that were mistakenly gotten. And it is, at least Ms. Gemmell's testimony, she believes that it could have been accidentally—an accidental mistake that they were ordered, but notwithstanding that, to see whether there was any misuse. I think that is the question that we need to search for.

I want to thank all of you for your participation here today. I know it has been a long day, at least for me, but I think that as we go forward, we should keep in mind that all administrations have made mistakes.

It is entirely plausible that the explanation that has been given is, in fact, an explanation that is truthful. And as we hasten to, I believe, for partisan reasons, as we accuse others of having political motives to beat up on the White House over this matter, we should try to find ways to make sure that everyone's privacy is protected, and there are probably, from this example, better ways to handle this.

Thank you.

Mr. CLINGER. The gentleman's time has expired.

I will now recognize the gentleman from Virginia, Mr. Davis.

Mr. DAVIS. I will be happy to yield to the chairman.

Mr. CLINGER. Just one question.

We hear about the Secret Service list that presumably was the cause of all of this. Can you tell me, in your experience, how often the Secret Service upgrades or updates the pass list for access to the White House?

Mr. HAUSER. I think it is monthly; isn't it, Jane?

Mr. CLINGER. How often is the Secret Service list upgraded? In other words, how often does it reflect the realities of who should have a pass?

Ms. DANNENHAUER. Well, we have the monthly list and then we had weekly lists.

Mr. FATTAH. But the list that comes to this office, for this purpose, how often is that updated?

Ms. DANNENHAUER. That would probably be monthly, would it not?

Mr. CLINGER. All right. So monthly.

Thank you.

Mr. DAVIS. Reclaiming my time, let me just try to focus on this.

Ms. Gemmell, you talked about a list that might have been left behind that you saw. Could you amplify on that a little bit, how long this list would have been? Would it have been an alphabetical list? Would it have known who is active and inactive, what kind of information would have been left?

Ms. GEMMELL. Sir, the list was supposed to have been of active personnel only. It would have been quite voluminous. I have no idea of the number. It would have been a staggering number.

Mr. DAVIS. You don't see any reason why Mr. Dale's name or why Mr. Culvahouse's name would have been on that list, would you?

Ms. GEMMELL. No, sir, it should not have been.

Mr. DAVIS. I think that clarifies my question. People who no longer work at the White House and, in some cases, have been gone for several years, should not have been on that list?

Ms. GEMMELL. Absolutely not.

Mr. DAVIS. Thank you.

The purpose today, we try to share—the practices of past administrations has not been consistent with what this administration has followed, and I think we have seen that up and down. Your testimony about the vault and where these, the FBI files were kept, were they kept in the same place under both administrations, all administrations?

Ms. GEMMELL. Yes, sir, they were.

Mr. DAVIS. So the current administration kept them in the same room that the Bush administration and the Reagan administration kept them?

Ms. GEMMELL. Yes, sir, they did.

Mr. DAVIS. That clarifies that.

We heard from one of my friends on the other side that when he asked Mr. Culvahouse, has this hurt you, what damage have you suffered, you wouldn't necessarily know what damage could come from people seeing your file that shouldn't see it, would you?

Mr. CULVAHOUSE. No, sir, I don't. That is probably yet to be told, as I live the rest of my career, and if I have the bad judgment to try to go into Government again.

Congressman, you know, I suspect I am not a terribly sympathetic figure. I can probably take care of myself if someone uses my file.

The people that I worry about, I can think of two or three occasions, Dick and Boyden can probably think of others that happened to them, where we would be told that someone wanted to work in the White House, someone who was qualified, usually a lower-level person, maybe a secretary or someone with a lot of technical expertise, who had concerns about going through the background process. I can think of a couple of occasions where I counseled people who would reveal things like, and I am not going to give you the exact situations, they were a recovered alcoholic or they had gone through a messy domestic situation and would have a poor credit report.

We would counsel about that, and if that is all that it was, if they were forthcoming with the FBI and if there was nothing else in the record, that they would survive the clearance process; they would only be known to professionals at the FBI and the Secret Service, only be known to people like Jane Dannenhauer, my deputy and me, if there was an issue, but I probably wouldn't read it if that is all there was.

And that person, in a couple of cases, went through clearance under that representation. It turns out I misrepresented what hap-

pened, because that person left at the end of the Reagan administration or midway in the Bush administration, but now their file has been reviewed by someone not on the list I gave them. And those are the people who are at risk, those are the people I feel particularly bad about.

Mr. DAVIS. What about somebody being interviewed and you are asking them to be candid and honest. If they knew that this information could be used by other people for other purposes, wouldn't that have a chilling effect on being able to get honest checks in the future as well?

Mr. CULVAHOUSE. Yes, sir.

Mr. GRAY. Absolutely.

Mr. DAVIS. I think that is really the point of this, and we don't know what damage may or may not occur to the current people on the list. But in the future, in terms of the utility of these files, the confidentiality and their use could be damaged by this incident. And I think that is what we have a collective responsibility to try to come back and ensure that this doesn't happen again and try to restore some integrity to the process.

The irony here is that the administration claimed executive privilege over these documents originally, particularly Mr. Dale's file, which is what the specific question was. Our question would be, my question would be at what point—does this seem under your knowledge of executive privilege, to fall under that definition, and I want to ask if someone in your office had seen this and a document was requested from a committee, would you claim executive privilege on this? Do you understand the question?

Mr. CULVAHOUSE. Well, in terms of the transmittal form between my office and the FBI, the transmittal form, the preprinted form, I would not have claimed executive privilege, because that does not reflect my advice to the President with respect to the nomination process, which I would claim executive privilege for. I claim to be an executive privilege hawk, much to the dismay of prior congressional committees.

Mr. DAVIS. It was your job, too, as the President's Counsel, that is your job as we move into these. I just think it is important to note that there are still 2,000 documents that we have not seen.

The release of the last one who has caused a fire storm with the press and media, and of course with the committee as well, as we start seeing that iceberg, as a little bit more of it becomes visible, has caused a lot of concern. And we are wondering what the next 2,000 documents, all of which privilege has been claimed, and probably, if we see privilege claimed for documents like this, what does this mean for what is left on there?

We have also seen that the bureaucratic detailee turned out to be a political operative, that the files that it was said that were given to them by the Secret Service may in fact be something far more, and it is going to be a very interesting meeting when we find out how this list was obtained.

The question to me is not who was on it, but who was off it; people actively working at the White House who never got the security clearances, and they seemingly hadn't been requested. People working there every day, people like Harry Thomason who was

working in and out every day, and as far as we know, never received the appropriate clearances or checks.

So I yield back.

Mr. CLINGER. The gentleman's time has expired.

I am now pleased to recognize the gentleman from Indiana, Mr. McIntosh, for 5 minutes.

Mr. MCINTOSH. Thank you, Mr. Chairman.

First of all, I have an opening statement that I would like to put into the record.

Mr. CLINGER. Without objection, all members' opening statements will be included as part of the record.

[The prepared statement of Hon. David M. McIntosh follows:]

PREPARED STATEMENT OF HON. DAVID M. MCINTOSH, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF INDIANA

Mr. Chairman, I applaud your efforts to get to the bottom of the Filegate scandal through this series of hearings. We are either looking at the most raw and egregious abuse of presidential power in 20 years, or we are seeing a White House full of bumbling incompetents. Neither is a particularly attractive—or comforting—scenario.

The Clinton White House has violated the privacy of hundreds of innocent Americans. Interns, secretaries, and even a former Secretary of State have seen their FBI files reviewed by the President's men for "derogatory" information.

This is a big deal. FBI files contain all sorts of unsubstantiated rumor and innuendo. For those of you who have never experienced an FBI background check, let me share how it is done.

FBI agents interview your family, your friends, your colleagues, your neighbors—anyone who might have negative information about you. Please don't misunderstand the purpose of an FBI check. The FBI is looking for dirt on you. It's their job. They need to find out if there is anything bad in your past that prevents you from holding a position of responsibility.

The FBI then writes all of this negative information—be it rumor, gossip, innuendo, or fact—into its report. If your neighbor mentioned that your kids might have used drugs once, that would be in your file—even if it's not true. If your neighbor heard you had once visited a psychiatrist, that would be in your file—even if it's not true.

Having strangers—and in this case political operatives—taking unauthorized peeks into your FBI files is like coming home to find your house has been ransacked. At least 408 innocent Americans have had their private lives ransacked by political operatives in the White House.

FBI Director Louis Freeh has said his agency was victimized by the White House. He's right. But the real victims here are the more than 400 innocent Americans who don't know how gossip and rumor in the FBI files might be—or might have been—used by the President's men.

As we move forward with this investigation, as we continue to hold hearings on this vitally important issue, we must not lose sight of these innocent victims. Sadly, one of my staff members is one of these victims, so today's hearing hits particularly close to home for me.

We owe it to each and every person on the White House's FBI Target List to get to the bottom of this swamp. We owe it to the victims to identify who was responsible for this horrifying misuse of the FBI. We owe it to the victims to determine if they were, indeed, part of a White House "enemies list."

Digging up dirt on political opponents is an unfortunate fact of life in modern politics. But when that dirt-digging occurs illegally—when that dirt-digging abuses the awesome power of the White House—when that dirt-digging indiscriminately victimizes interns, secretaries and other staff—it is particularly troubling.

This Committee has the unfortunate task of seeking the truth in this matter. It is not a pleasant task, but it is one each and every member of this Committee—whether Democrat or Republican—must take very seriously. It is our duty and obligation to the 408 innocent Americans victimized by the White House to complete this inquiry.

In the end, our investigation will determine whether the Clinton White House is guilty of bumbling incompetence or gross misuse of power.

What a choice.

Mr. MCINTOSH. Let me say I think the real question that needs to be addressed today that has been overlooked to some extent, is in recent months, has there been an attempt to cover up the fact that these White House—these files were at the White House. And I think we need to ask ourselves and ask appropriate officials when did senior White House and Justice Department officials first learn of the existence of these White House files—FBI files in the White House?

Was it June 6 when they began returning them? Was it May when they asserted executive privilege?

Was it February when they met with Chairman Clinger? Or was it earlier?

And when did they know about that, what did they know, and what did they decide to do about it?

Now, the first part of this issue I think we need to focus on is exactly when the files were sent back. My understanding is that 338 of them were sent back on June 6; one more file relating to Travelgate was sent on June 10; 71 additional files were sent on June 13 when the FBI issued its report condemning the White House for the way it handled this matter.

But I also understand there is still 17 files, when you add up all the numbers that have not been sent back, according to the FBI's list of how many files they think were sent over to the White House.

The second issue, and this relates to executive privilege, and I would like to ask our witnesses, either—any of the former Counsels to the President, while you were serving as Counsel to the President, you have mentioned that the issue of executive privilege came up, and I wanted to ask you, were you familiar with the Reagan memorandum concerning executive privilege?

Mr. CULVAHOUSE. Yes.

Mr. GRAY. Yes.

Mr. MCINTOSH. Mr. Gray as well.

Was that memorandum followed after 1982 when it was put into place in every instance where there was an issue of executive privilege and whether it should be asserted?

Mr. GRAY. We followed it.

Mr. CULVAHOUSE. Absolutely, Congressman McIntosh.

Mr. HAUSER. Yes.

Mr. MCINTOSH. Is it correct that in that policy there is a statement that there will not be a claim of executive privilege relating to documents that have to do with allegations of credible wrongdoing?

Mr. HAUSER. That is correct.

Mr. MCINTOSH. And is it also correct that under the memorandum, the President states that there will only be an assertion of executive privilege when it is specifically authorized and signed personally by the President?

Mr. HAUSER. That is correct.

Mr. CULVAHOUSE. Yes.

Mr. GRAY. Yes.

Mr. HAUSER. I think it is upon the recommendation of the Justice Department.

Mr. MCINTOSH. Now, it is my understanding that the current administration also continues to follow this policy. Are you all familiar with that? You may not have any reason to know what their policy is.

Mr. GRAY. I read that they had, but of course you are involved with your own process here. It doesn't appear that they did in connection with your own contempt proceedings.

Mr. MCINTOSH. Well, that is what I want to get into a little bit. In looking at this, there is a letter—and Mr. Chairman, I would like to make part of the record the chronology about the events, and specifically refer to pages that refer to White House withholding of records where it mentions on February 15 that Mr. Quinn had a meeting with Chairman Clinger, and at that point indicated that they were going to be holding certain documents for various privileges. And that later on May 9, Mr. Quinn sent a letter to Chairman Clinger, which I have a copy of here, and I would like to also include that in the record, and read from it where he says:

Consistent with that opinion, the opinion—the Reagan opinion on Executive Privilege, the President has directed me to inform you that he invokes Executive Privilege as a protective matter with respect to all documents in categories on page 3, which include the documents that Executive Privilege has been asserted over, until such time as the President, after consultation with the Attorney General, makes a final decision to which specific documents require a claim of Executive Privilege. This letter constitutes your notice of that invocation of privilege.

[The information referred to follows:]

THE WHITE HOUSE,
Washington, DC, May 9, 1996.

Hon. WILLIAM F. CLINGER, Jr.,
Chairman,
Committee on Government Reform and Oversight,
2157 Rayburn House Office Building,
House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of May 7, 1996, in which you belatedly invited me to submit a written statement in response to your resolution seeking to hold me in criminal contempt for the White House's withholding of certain confidential documents.

In spite of the tardiness of this offer, however, I believe it is important that I make the following brief points regarding the White House's responses to your Committee's investigation.

This Committee served its first request for documents not three years ago, as you contend, but on May 30, 1995. This was followed by a second request on June 14, 1995, a third request on September 18, 1995 and subpoenas on January 11, 1996, directed to the White House and a number of present and former White House employees.

These requests were far-reaching and broad. In response to them, the White House has produced approximately 40,000 pages of documents. Included in this production were many confidential documents which the White House legitimately could have claimed should have been protected from discovery. However, in order to demonstrate to you that the White House Counsel's Office cooperated fully with the numerous outside investigations of the travel office matter, including investigations by the GAO, the FBI, the Office of Professional Responsibility, the Public Integrity Section, and the Internal Revenue Service, claims of privilege on these documents was either never asserted or were waived. Similarly, the White House produced its confidential, internal working papers used in preparing the July 2, 1993 White House Management Review.

Far from "stonewalling," therefore, the White House has turned over sensitive and legitimately protected documents for review by this Committee. This fact flatly contradicts your hollow assertions that this resolution is needed to compel the production of documents that relate, for example, to the allegations of thwarting official investigations by the FBI and the IRS. The Committee already has such documents.

Furthermore, the history of our document production to this Committee demonstrates that, consistent with the legitimate interests of co-equal branches of the government, the White House has undertaken a process of accommodation for access, review and production of documents. For example, after the Committee served its document requests last summer, Judge Mikva, my predecessor as White House Counsel, met with you and your staff and worked out a system for the review of approximately 300 pages of confidential documents; copies of many of those documents were subsequently produced to the Committee. For documents that consisted of almost pure legal analysis, we gave the Committee not only the opportunity to review the memoranda, but the White House also agreed to provide a copy of these documents 24 hours in advance of any interview or deposition of the author. The Committee, in fact, has taken advantage of this agreement during the present round of depositions.

When you decided that the system agreed to last summer was no longer convenient, Jane Sherburne and I again met with you for an hour and a half on February 15, 1996 to discuss the remaining confidential documents. In that meeting, you not only agreed to a rolling production of documents in response to the January subpoena, but we also provided an extensive description of documents which constituted confidential internal communications that should not be subject to production. I also offered a document proposal that would accommodate the needs of the Committee while protecting the legitimate interests of the White House. You promised me you would consider the proposal and respond. On at least four occasions, I reiterated in writing my willingness to continue discussions about these documents. The only response from you was your letter of May 2, 1996, accompanied by a draft resolution, in which you demanded the production of all documents under penalty of criminal contempt of Congress.

Despite my deep disappointment with your unwarranted letter and what I frankly think is an irresponsible threat of criminal contempt, calculated not to find the truth but instead to make a political point, I nonetheless continued my efforts to resolve this situation. On May 3, 1996, after our telephone conversation and at your request, I again categorized the type of confidential documents that were at issue:

1. Documents relating to ongoing grand Jury Investigation by the Independent Counsel;
2. Documents created in connection with Congressional hearing concerning the Travel Office matter; and
3. Certain specific confidential internal White House Counsel office documents including "vetting" notes, staff meeting notes, certain other counsel notes, memoranda which contain pure legal analysis, and personnel records which are of the type that are protected by the Privacy Act.

My letter stressed that "the materials that the Committee is demanding, and threatening contempt for not producing, go far beyond events relating to the Travel Office matter itself." I pointed out that "in so doing, the Committee presumes to ask for, among other things, our internal preparation for Congressional hearings you yourself have called, our private communications with Members and staff of this Committee, as well as our response to the [ongoing investigations] of the Independent Counsel." I then renewed my offer to meet and attempt a resolution.

On May 6, 1996, you again flatly refused to discuss any outcome short of turning over all documents or proceeding with the contempt resolution. Still, I responded by again offering to work out an accommodation. Your letter of May 7th, which contains a broad, entirely unfounded and, therefore, reckless attack on the Office of the White House Counsel, rejected yet again any attempt to recognize the legitimate interests of the White House. Instead, you continued to demand a wholesale production of all internal and confidential documents.

You did finally agree to one meeting to hear my offer to avoid this unnecessary confrontation. On May 8, 1996, you met with Congresswoman Cardiss Collins, Jane Sherburne, David Schooler, Jonathan Yarowsky and me. In that meeting, I outlined the confidential documents that we were prepared to let your staff review, offered to produce a privilege log and provided a strict timetable by which all of this material would be available. I also asked for an explanation as to what the Committee's specific needs were and how various categories of our confidential documents would meet those needs. You refused to respond with anything more substantial than "we want it because we want it."

After you promised to consider my offer, the meeting adjourned. I was barely back in my office when I received a copy of your letter to Congresswoman Collins refusing to compromise at all. Compromise plainly will not serve the real motivation behind the confrontation you now demand.

Your letter also rejects as "wholly unreasonable" any attempt to resolve our differences through a civil rather than a criminal proceeding. As I pointed out to you

in our meeting, there is clear precedent for proceeding this way, as demonstrated by the analysis written by Mr. Olson of the Reagan Justice Department and by the Senate's actions to implement such a civil enforcement proceedings—actions which are entirely available to the House and which would presumably be easy to accomplish if, in fact, the leadership support your efforts. Your unwillingness to follow this course of action only reinforces the inescapable conclusion that you are more interested in raising the political and personal stakes than in a just and reasonable resolution of this matter. This is particularly so in light of the fact that criminal proceedings will never lead to a Judicial ruling on the privileges we assert, whereas a civil proceeding would result in an adjudication that would tell us whether or not you should get the documents you say you want.

Even this brief description of the document history clearly demonstrates the level of cooperation and compromise on the part of the White House. It also demonstrates that this motion is, at best, premature; there is still an opportunity for good faith negotiations. Instead, Mr. Chairman, your insistence in proceeding with this resolution has set in motion a needless constitutional confrontation. That confrontation is—beyond any doubt—in the sole service of Republican politics.

I want also to address your vague allegation that the White House Counsel's Office has thwarted your Committee's investigation of the travel office matter. This accusation is baseless, unfair and completely untrue.

Even assuming, however, that you have a good faith basis for making such a claim, it does not entitle your Committee to a wholesale invasion of all of our internal legal material generated in connection with responding to your Committee's investigations and the ongoing independent counsel investigation. If you will ask your questions with specificity, we will answer them. But, don't simply ask us to produce all of our internal files just to prove a negative. By refusing to be sufficiently specific, you have not even begun to establish the demonstrably critical showing that the courts require in order for an oversight committee to overcome the executive branch's strong interest in confidential and candid legal communications. Instead, you have unilaterally determined that this President is not entitled to any confidential legal communications and, therefore, any defense. On behalf of this and future administrations, I cannot accept your effort to destroy the viability of the Office of Counsel to the President.

As you may know, there are written procedures for responding to Congressional requests and for invoking executive privilege which were implemented by President Reagan and adopted by President Clinton. Those procedures require consultation with the Attorney General prior to asserting executive privilege. That process is now underway, and the Attorney General has given her legal judgment that "executive privilege may properly be asserted with respect to the entire set of White House Counsel's Office documents currently being withheld from the Committee, pending a final Presidential decision on the matter." (See attachment.) Consistent with that opinion, the President has directed me to inform you that he invokes executive privilege, as a protective matter, with respect to all documents in the categories identified on page 3, until such time as the President, after consultation with the Attorney General, makes a final decision as to which specific documents require a claim of executive privilege. This letter constitutes your notice of that invocation of privilege.

The procedures for invoking privilege also include the following provision:

Pending a final Presidential decision on the matter, the Department Head shall request the Congressional body to hold its request for the information in abeyance. The Department Head shall expressly indicate that the purpose of this request is to protect the privilege pending a Presidential decision, and that the request itself does not constitute a claim of privilege.

I hereby request that your Committee hold its request in abeyance until such time as a Presidential decision as to executive privilege has been made with respect to specific, individual documents.

As always, I remain willing in the meantime to discuss this matter with you so that the legitimate needs of the Committee and the interests of the White House can be met.

Sincerely,

JACK QUINN,
Counsel to the President.

cc: Hon. Cardiss Collins

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, May 8, 1996.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: You have requested my legal advice as to whether executive privilege may properly be asserted in response to a subpoena issued to the Counsel to the President by the Committee on Government Reform and Oversight of the House of Representatives.

The subpoena covers a large volume of confidential White House Counsel's Office documents. The Counsel to the President notified the Chairman of the Committee today that he was invoking the procedures of the standing directive governing consideration of whether to assert executive privilege, President Reagan's memorandum of November 4, 1982, and that he specifically requested, pursuant to paragraph 5 of that directive, that the Committee hold its subpoena in abeyance pending a final Presidential decision on the matter. This request was necessitated by the deadline imposed by the Chairman, the volume of documents that must be specifically and individually reviewed for possible assertion of privilege, and the need under the directive to consult with the Attorney General, on the basis of that review, before presenting the matter to the President for a final determination. The Chairman rejected the request and indicated that he intends to proceed with a Committee vote on the contempt citation tomorrow.

Based on these circumstances, it is my legal judgment that executive privilege may properly be asserted with respect to the entire set of White House Counsel's Office documents currently being withheld from the Committee, pending a final Presidential decision on the matter. This would be a protective assertion of executive privilege designed to ensure your ability to make a final decision, after consultation with the Attorney General, as to which specific documents are deserving of a conclusive claim of executive privilege.

Sincerely,

JANET RENO,
Attorney General.

Mr. MCINTOSH. Now, the question I have for our witnesses, is there any procedure under the Reagan Executive order, which is cited here in the letter, for an assertion of executive privilege where the President has not been informed of the matter and not reviewed the documents, but in some sense, a protective executive privilege I think is the label they put in this letter.

Mr. GRAY. I am not aware of it. It is sort of like a trial, a trial claim, a practice claim of privilege. I am not aware of the so-called protective privilege.

Mr. MCINTOSH. And if there was any indication to say or intending to exert executive privilege, although we haven't done it, would you have suspected that they would immediately begin reviewing the documents with the President in order to make that determination?

Mr. GRAY. In my office, I can't speak for A.B. or Dick, but we I don't think would have provoked the committee into a committee vote without having a thorough review of the underlying documents. This was a lesson drawn out of the very early Reagan years, and I don't think we would have done that again. But Dick was there.

Mr. HAUSER. In fact, the process that you describe sounds backwards to me. It was the process that was entered into with the Justice Department where there was a review of the documents, and only after there was concurrence by the Department of Justice and the Attorney General and the White House Counsel that documents were appropriate for an assertion of executive privilege would there be a presentation to the President.

Mr. MCINTOSH. Well, it appears to me since Mr. Quinn's letter asserts the President has authorized him to assert this privilege, and assuming he is being forthright in his letter, that there is a real question of were these—the fact of this list of FBI files presented to the President, did the President know that there were FBI files? Did he know that they were still in the White House?

Certainly, did Mr. Quinn or Attorney General Reno know about their existence in the White House, and why was there no action taken to return those files until later in June when the FBI became involved in the matter indicating that they disapproved of the procedures?

Mr. CLINGER. The gentleman's time has expired.

Mr. MCINTOSH. Mr. Clinger, let me call on this committee to hold further hearings to get to the bottom of these questions.

Mr. CLINGER. I assure the gentleman from Indiana that we do intend to hold further hearings for that precise purpose.

Now I am pleased to recognize the gentleman from Minnesota, Mr. Gutknecht, for 5 minutes.

Mr. GUTKNECHT. Thank you, Mr. Chairman.

I think many of the questions that I had wanted to ask have been asked. But I do want to sort of frame this whole issue, because I think we have heard from some of the folks on the other side, that you know, no harm, no foul. This is no big deal. This was an honest bureaucratic mistake, some of those things.

But let me just—in fact, our colleague from New York, Ms. Maloney said that there were no big names on the list, and so it is no big deal.

Well, let me just remind the committee that Representative Forbes' wife was on the list, 12 congressional aides were on the list, two of our subcommittee staff were on the list, Mr. Culvahouse was on the list, Tony Blankley, the Speaker's Press Secretary was on the list. Hardly anyone in America I think believes that this was some innocent list. And more importantly, none of these people were likely to be appointed to high-ranking people in the Clinton White House.

I guess the question is why is this important? Why does America care? Why should we care about this?

Well, I think there are a lot of reasons. Benjamin Franklin once observed that reputations are like fine China. They are easily broken and never well-mended.

And I think from the beginning of history, world leaders have understood the power of having a secret police that could spy on the individuals who lived in their kingdom or their fiefdom or their country, or whatever, and I think it is important for a lot of reasons, because there has been a violation of what I believe is a sacred trust of the FBI.

Those of us who grew up watching "Elliott Ness and the Untouchables" on television have this sort of image of the FBI as an agency that you could trust, they were the good guys, they fought for truth, justice and the American way, and that somehow they were working for us. But I think this example demonstrates the tremendous potential for damage to be done to American citizens with the collection of raw data, with unprotected ability of certain individuals for political purposes to get their hands on this data,

and that ultimately, this data could be leaked when it was found to be politically favorable to certain people.

Let me just go back and restate some of the things that we have learned. I feel a little bit like Will Rogers. You know, he used to say: The only thing I know is what I read in the newspapers. And as we reread some of the columns and some of the articles and some of the things that have been put into the national newspapers over the last several weeks, it makes a very interesting story. Frankly, the more we learn, the more questions that are raised, not only for this committee, but I think for all Americans.

For example, in the L.A. Times on June 6, Mark Fabiani, a White House lawyer, insisted that the information in the files was never seen by White House officials. What we have here is obviously an innocent bureaucratic mistake. And the bottom line is that Mr. Dale's files were not singled out.

Well, now we know that is not exactly true. As a matter of fact, the more we learn about Mr. Marceca and the other individuals who were involved in this, they were not low-level uninformed bureaucrats. I mean, they were hand-chosen.

In fact, it was quoted in the Washington Post of June 9 of this month, that Anthony Marceca, an Army Civilian Investigator who was assigned to the White House Personnel Security Office in late 1993 and early 1994, said he reviewed the files for quote, "derogatory information." If he found such information, he said he passed it along to Craig Livingstone, the director of the office.

And the more we learn about these two individuals, the more questions it raises, not only about this White House, but the way that business was conducted over there.

Let's just review what we now know about Anthony Marceca: First of all, we now know that the White House specifically requested by name the assignment of the Army aide who improperly got more than 340, now we learn it was at least 400 names, and frankly, I think if we ever get the rest of the subpoenaed documents I think we will find that the list is much longer than 408. My own guess it is more like 1,000, because just knowing what we know, to get through G and to get to about 400, the rest, there might be 1,000 names that are on this list.

Marceca is an investigator with the Army Criminal Investigation Division, we know that. We also know that he had frequent contacts with the First Lady, Hillary Rodham Clinton as well as Vice President Al Gore. This has all been published in the papers or in Newsweek magazine. He did work for a special committee of the U.S. Senate.

He also did work for various national campaigns, including Ed Muskee, George McGovern and Gary Hart for President. He ran for delegate to the Democratic National Convention several times. These are all published reports. Colleagues remember him as a character in dark glasses and a trench coat, who enjoyed cultivating a cloak-and-dagger image. He found a soul mate on the campaign trail in Mr. Livingstone.

And who was Mr. Craig Livingstone? Well, he worked on the personal staff of Geraldine Ferraro during her vice Presidential campaign, and was on Gary Hart's staff when he sought the Democratic nomination for President. We know that to be a fact. He

worked on Vice President Al Gore's Advance Team in 1992. Livingstone has no law enforcement background, a former restaurant bouncer. He was on the 1984 Hart campaign when he met ex-cop Marceca.

I think the question that we need to ask about these two individuals from this esteemed panel that has been collected today, would you or your folks in your administration have put these kinds of individuals in charge of very sensitive FBI raw data?

Mr. HAUSER. Well, I will take a stab at answering your question maybe for all of us. I think the great contrast that you see between the way backgrounds were conducted in this administration and in our respective administrations, was that Craig Livingstone is making the decisions here as opposed to somebody at the level of Counsel or Deputy Counsel to the President, and there was a very tight control on the operations of the office between the counsel and individuals who worked in the Security Office, and I think it is qualitatively very different.

Mr. GUTKNECHT. Anybody else want to comment? Would you have put these kinds of political operatives in that kind of a responsibility in your administrations?

Mr. CULVAHOUSE. No, sir.

Congressman, that is not to cast any stones at Mr. Livingstone or Mr. Marceca. There may have been a place at the White House, as I suggested the Office of Political Affairs or some other place, or the Advance Team, where they could have rendered good service, but there are a number of offices at the White House where you want a different kind of individual with a different attitude and a reputation for professionalism and discretion.

Mr. CLINGER. The gentleman's time has expired.

I will now recognize the gentleman from Indiana, Mr. Souder, for 5 minutes.

Mr. SOUDER. I have been personally listening most of the day, it has been a little scary, and I am sure that some people around the country may be concerned, as you mentioned, about applying for Government jobs.

I particularly wanted to talk to Mr. Culvahouse, and I have a line of questioning here, really, these are kind of yes or no questions. We have heard that drunk driving, drug abuse, shoplifting may be some of the things in there, but a lot of the discussion today has kind of laundered this and made these sound like they are fairly formal files, and I have some questions about the types of things that could appear in them.

I just wondered, for example, in the medical area, could the record show that somebody was HIV positive, which may not be known?

Mr. CULVAHOUSE. Yes.

Mr. SOUDER. Could it be shown that somebody had been treated for mental health problems?

Mr. CULVAHOUSE. Absolutely. That is a question specifically asked.

Mr. SOUDER. Could it be that somebody could be investigated or have domestic violence, sexual harassment, child abuse charges, even if they hadn't been convicted in court?

Mr. CULVAHOUSE. Yes, sir.

Mr. SOUDER. Could you have questions and allegations in there, which may not even be true, on sexual preference, or whether someone was having a marital affair?

Mr. CULVAHOUSE. Yes, sir.

Mr. SOUDER. This isn't just some kind of financial examination; this is like open season on people's personal lifestyles, on their background, going into the hands of political appointees.

I know that Mr. Gray, I want to see if this is correct; you said that it could have—it gave you chills to the types of details involved. Is that a proper characterization, and does it indeed, as you look at this, give you chills as to where these files might be floating, even around interns or political people?

Mr. GRAY. Yes, sir.

Mr. SOUDER. If—do you view this, given—I understood, at least Mr. Culvahouse was saying, and I think others, that you would not have—you viewed this as a breach, and Mr. Culvahouse is on the list, a breach of the confidence that you had. In other words, you knew that there would be reviews within the administration that you were in, but do you view that as a breach of the agreement with you and a breach of privacy and confidence that they appeared in the hands of possibly political people?

Mr. CULVAHOUSE. Yes, sir. I have gone through clearance four times. One as a Senate staffer for nuclear weapons clearance for the Joint Committee on Atomic Energy, then the White House clearance process, then Secretary Cheney appointed me to an advisory commission to look at command and control issues with nuclear weapons, and then for the Senate Intelligence Committee, to reform the espionage laws.

Each time I knew that someone would be reviewing my files, but I had a pretty good idea of who those someones were, what kind of people they were, but never in my wildest dreams did I think a White House, I guess dominated by a political party of which I am not a member, would be looking at my file.

Mr. SOUDER. If a doctor breaches confidentiality, they can be subject to a civil or criminal suit. Do you believe people in political positions who violate that breach should be vulnerable to similar?

Mr. CULVAHOUSE. Congressman, I have reserved judgment on that issue. I would need to know more. I think if it were knowing, willful, intentional, then the answer is yes. If it were an innocent mistake, although a mistake of such magnitude, it is hard to envision, then probably not.

Mr. SOUDER. As Congressman Gutknecht has pointed out, we don't even know what magnitude for sure is there.

I wanted to insert into the record with a brief comment, to make it clear that there are documents here, that it was Mr. Marceca who, in fact, requested these documents, and I would like to submit these for the record, Mr. Chairman.

Mr. CLINGER. Without objection.

[The information referred to follows:]

THE WHITE HOUSE
WASHINGTON

C O P Y
from ORM

OA 5184

April 5, 1993

The Honorable Les Aspin
Secretary of Defense
The Pentagon
Washington, DC 20310

RE: Request for Detailee
Special Agent Anthony B. Marceca
United States Criminal Investigative Command

Dear Secretary Aspin:

I am writing of behalf of the Counsel to the President to request the detailing on a non-reimbursable basis of Special Agent Anthony B. Marceca, United States Criminal Investigative Command, to the Office of White House Security, the activities of which are directed by the Office of Counsel to the President.

Existing budgetary limitations on the staffing of this Office require us to request an investigator to be detailed to this Office on a non-reimbursable basis, beginning on April 12, 1993 and not to exceed six months. I have learned of Agent Marceca's unique investigative abilities and background and would greatly appreciate his full-time assistance here. Agent Marceca has a current top-secret clearance which will facilitate his arrival.

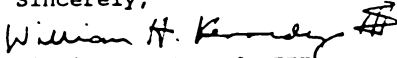
We thank you for your consideration in helping us in this matter and look forward to hearing from you. We have copied Commander Berry and Director Allen on this request as well. Please feel free to contact the undersigned at (202) 456-2345.



CGE 043823

Secretary Aspin
Page 2
April 5, 1993

Thank you for your assistance. All best wishes,

Sincerely,

William H. Kennedy III
Associate Counsel to the
President

cc: Commander Peter Berry
Major General
Headquarters U.S. Army Criminal Investigative Command

David C. Allen
Director of Procurement Fraud
U.S. Army Criminal Investigative Command -- Fort Meade


CGE 043824



DEPARTMENT OF THE ARMY
UNITED STATES ARMY CRIMINAL INVESTIGATION COMMAND
EASTERN AREA FIELD OFFICE
MAJOR PROCUREMENT FRAUD UNIT
FORT GEORGE G. MEADE, MARYLAND 20755-5325

REPLY TO
ATTENTION OF:

April 6, 1993

Mr. William Kennedy
Special Counsel to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear Mr. Kennedy:

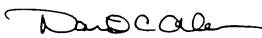
During our recent telephone conversation I was pleased to hear that you were considering detailing Mr. Anthony Marceca to a position on the staff of the White House. I wholeheartedly support and endorse your detailing Mr. Marceca. I have observed this splendid Special Agent in both professional and social settings for five years. In each, he projected unusual ability, potential, and 'elan.

Mr. Marceca is a sound and logical thinker, capable of handling any number of critical and sensitive missions at one time. He is equally comfortable in directing CID agents conducting a major investigation or in briefing senior leaders. Mr. Marceca is always the master of every situation. His professional competence, can do attitude and attention to detail have contributed to the smooth functioning and efficiency of the Major Procurement Fraud Unit, United States Army Criminal Investigation Command.

I unhesitatingly recommend that this fine individual be selected for detail to the White House staff. Do not be dissuaded should the military leadership of CID object to the detail of Mr. Marceca.

I stand ready to discuss, in great detail, the high regard I have for Mr. Marceca both professionally and personally. Please feel free to call anytime at (office) 410-677-6240, (home) 301-776-6976.

Sincerely,


David C. Allen
Director


CGE 043821

THE WHITE HOUSE

WASHINGTON

April 13, 1993

The Honorable Les Aspin
Secretary of Defense
The Pentagon
Washington, DC 20310

RE: Request for Detailee
Special Agent Anthony B. Marceca
United States Criminal Investigative Command

Dear Secretary Aspin:

I am writing on behalf of the Counsel to the President to request the detailing on a non-reimbursable basis of Special Agent Anthony B. Marceca, United States Criminal Investigative Command, to the Office of White House Security, the activities of which are directed by the Office of Counsel to the President.

Existing budgetary limitations on the staffing of this office require us to request an investigator to be detailed to this office on a non-reimbursable basis, beginning on April 12, 1993 and not to exceed six months. We have learned of Agent Marceca's unique investigative abilities and background and would greatly appreciate his full-time assistance here. Agent Marceca has a current top-secret clearance which will facilitate his arrival.

We thank you for your consideration in helping us in this matter and look forward to hearing from you. We have copied Commander Berry and Director Allen on this request as well. Please feel free to contact the undersigned at (202) 456-2345.

Thank you for your assistance. All best wishes,

Sincerely,


William H. Kennedy III
Associate Counsel to the
President

cc: Commander Peter Berry
Major General
Headquarters U.S. Army Criminal Investigative Command

David C. Allen ✓
Director of Procurement Fraud
U.S. Army Criminal Investigative Command -- Fort Meade



THE WHITE HOUSE
WASHINGTON

June 22, 1993.

Colonel Michael Sherfield
Executive Secretary to the Secretary of Defense
The Pentagon
Washington, DC 20310

RE: Request for Detailee
Special Agent Anthony B. Marceca
United States Criminal Investigative Command

Dear Colonel Sherfield:

The Director of the Office of White House Personnel Security (WHPSO), Mr. Craig Livingstone, has requested that Special Agent Anthony B. Marceca, of the U.S. Army Criminal Investigative Division Command (USACIDC), be detailed to the WHPSO for six months at the executive level on a non-reimbursable basis.

Based on his record, Agent Marceca has a broad and in-depth understanding of the administrative, logistical and investigative procedures of the DOD and the Criminal Investigative Division Command together with a strong background in law enforcement.

As the WHPSO undertakes to complete its ongoing review, on behalf of the new administration, of the several hundred military personnel assigned to the White House Complex and of incoming replacements and supplemental personnel, Special Agent Marceca's experience will prove invaluable. His specific expertise in reviewing and screening potential candidates will facilitate this process and assist the WHPSO in meeting pending deadlines. The DOD will, in my opinion, benefit in return by the knowledge that Agent Marceca will obtain in (i) learning the security techniques and procedures used by the WHPSO as such relate to its review of military personnel assigned to the White House and (ii) assisting the WHPSO as otherwise required in its voluminous task of providing personnel services related to security for the staff of the Executive Office of the President.

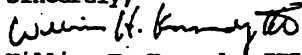
Agent Marceca has expressed a desire to obtain experience in the Senior Executive Service (SES) as part of his career development. If detailed to the White House, he would garner experience at a level equivalent to an SES level and transfer those skills back to the USACIDC upon return. The DOD stands to benefit from a more experienced agent who will have acquired even greater investigative skills while having made, in addition, valuable contacts in the field.


CGE 043819

Colonel Sherfield
Page 2
June 22, 1993

I am confident that Mr. Marceca's detail would benefit the DOD while enhancing the operations of the WHPSO. As his record indicates, Agent Marceca's professionalism and dedication have made him an asset to every department and agency which have had the benefit of his service.

Sincerely,



William H. Kennedy, III
Associate Counsel to the President


CGE 043815



Personnel and
Readiness

CE OF THE SECRETARY OF DEFENSE

WASHINGTON, DC 20301-1000

5 AUG 1993

AUG 12 1993

MEMORANDUM FOR ASSOCIATE COUNSEL TO THE PRESIDENT, THE WHITE
HOUSE
THROUGH: ~~EXECUTIVE SECRETARY, DEPARTMENT OF DEFENSE~~
SUBJECT: Request for the Detail of Special Agent Anthony B.
Marceca

We approve your June 22 request to detail Special Agent
Anthony B. Marceca for 6 months on a nonreimbursable basis. The
Department of the Army will coordinate with your staff regarding
any personnel actions needed to effect this detail.

ROBERT M. ALEXANDER
Lieutenant General, USAF
Deputy Assistant Secretary
(Military Manpower and Personnel Policy)

CGE 043822

UNCLASSIFIED



OFFICE OF THE CHIEF OF STAFF, ARMY

MANAGEMENT SUPPORT TEAM

FAH HEADER SHEET

FROM <i>SFC Ryan</i>	OFC SYMBOL DACS-DSR	PHONE NUMBER (AC 703) VOICE 697-0871 (DSN 227) FAH 695-7567 (DSN 225)
TO <i>Mr. Allen</i>	OFC SYMBOL <i>12 Aug</i>	VOICE: _____ FAH: <u><i>DSN 923-2419</i></u>
REMARKS: (NUMBER OF PAGES <u>5</u>), OTHER: <i>A copy has been faxed to MG Berry.</i>		

UNCLASSIFIED



CGE 043811



DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF STAFF
WASHINGTON, D.C. 20310-0200



DACS-DSA (614)

12 August 1993

MEMORANDUM FOR Major General Peter T. Berry, Commanding General,
U.S. Army Criminal Investigation Command,
5611 Columbia Pike, Falls Church, VA 22041

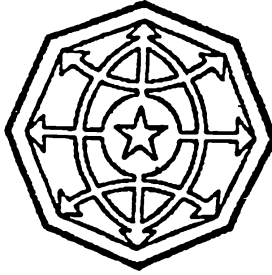
SUBJECT: White House Detail

1. The Deputy Assistant Secretary of Defense, Military Manpower and Personnel Policy, has approved the detail of Special Agent Anthony B. Marceca, a member of your command, to the Office of White House Personnel Security for six months on a nonreimbursable basis (encl).
2. Please coordinate with the White House Staff to ensure Mr. Marceca's immediate detail.
3. Point of contact for this action is CW3 Piatti, (703) 697-2567.

Encl


CHARLES E. DOMINY
Lieutenant General, GS
Director of the Army Staff


CGE 043813



FACSIMILE TRANSMITTAL HEADER SHEET			
PERSONNEL DIRECTORATE			
U.S. Army Criminal Investigation Command 5611 Columbia Pike Falls Church, Virginia 22041-5015		AUTOVON/DSN: 289-1314 Commercial: 703/756-1314 FACSIMILE: 703/756-0833	
OFFICE SYMBOL CISP-PE-CP		RELEASED <i>Betty Bray</i>	
SUBJECT <i>DETAIL TO WHITE HOUSE</i>			
FROM: HQUSACIDC ATTN: CISP-PE-CP Room 117 Nassif Bldg. 5611 Columbia Pike Falls Church, VA 22041-5015 - AUTOVON/DSN: - Commercial:		TO WASHINGTON FRAUD TEAM ATTN: TONY MARCECA (410) 677- 923-2419 - AUTOVON/DSN: - Commercial:	
CLASSIFICATION	UNCL	NUMBER OF PAGES	PRECEDENCE
REMARKS <i>As requested: official authorization SF 50 to follow. Good luck! (BA)</i>			

ONLY 2001

CGE 043817

1. Action Requested		2. Request Number	
DETAIL NTE 180 Days		13 August 1993	
3. For Attention: Mission Call Number and Telephone Number		4. Forwarded Effective Date	
MICHAEL D. COLTON, (703) 756-1371		ISA-015 18 AUG 93	
5. Action Requested by (Typed Name, Title, Signature, and Request Date)		6. Action Submitted by (Typed Name, Title, Signature, and Request Date)	
MICHAEL D. COLTON Chief, Investigative Support Division		CARL L. LOCKETT Colonel, MP Commander, Investigative Services Activity	
7. Name (Last, First, Middle)		8. Date of Birth	
MARCECA, Anthony B.		06-08-42	
9. Effective Date		10. Expiration Date	
11. Remarks			
12. Remarks			
13. Remarks			
14. Remarks			
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100. Remarks			

CGE 043818

WHITE HOUSE OFFICE
PERSONNEL FROM OTHER AGENCIES

TO: OFFICE OF MANAGEMENT AND ADMINISTRATION		FROM: (Requesting Official) <i>Livingstone, Craig</i>	
THIS IS TO REQUEST THAT THE FOLLOWING INDIVIDUAL PERFORM DUTIES AT THE EOP COMPLEX			
NAME: Last: <i>MARCECA</i> First: <i>Anthony</i> Middle Initial: <i>B.</i>			
GRADE/STEP:	SALARY:	TYPE OF APPOINTMENT: <i>Non-reimbursable</i>	
SOCIAL SECURITY NUMBER: [REDACTED]			
BIRTHDATE: <i>8/6/42</i>	PARENT AGENCY: <i>Department of the Army</i>		
PURPOSE/JUSTIFICATION OF EXTENSION (Describe project or duties): <i>Assist Security Office with military adjudication. Office support</i>			
TYPE: ☐ HISTORICALLY PROVIDED SERVICE ☐ ASSIGNEE ☐ PRESIDENTIAL MANAGEMENT INTERN ☐ WHITE HOUSE FELLOW ☒ DETAILEE ☐ STUDENT VOLUNTEER ☐ AGENCY REPRESENTATIVE ☐ OTHER _____			
DRUG TESTING DESIGNATION: TDP - TESTING DESIGNATED POSITION ☐ TDP ☐ Non-TDP			
BEGINNING DATE (Mo/DaY/Yr): <i>2/28/94</i>		ENDING DATE (Mo/DaY/Yr): <i>6/27/94</i>	
POSITION TITLE (At the EOP Complex): <i>Security Assistant</i>		APPROVING OFFICIAL (IN PARENT AGENCY (Name & Telephone):	
TYPE OF DETAIL (If applicable): ☒ Non-Reimbursable ☐ Reimbursable		ASSIGNMENT LOCATION (Office or Division, Building, Room Number, & Telephone): <i>OEDB WH Security Room 84 456-2345</i>	
IF REIMBURSABLE, FMD CERTIFICATION OF FUNDS AVAILABILITY: <i>Start reimbursement 4/11/94</i>			
EOP CONTACT PERSON (Name & Telephone): <i>Craig Livingstone, 456-2345</i>			
SIGNATURE OF WHO APPROVING OFFICIAL: <i>Craig Livingstone</i>		DATE: <i>2/28/94</i>	
OFFICE OF MANAGEMENT AND ADMINISTRATION APPROVAL:		DATE:	


 CGE 043810

WH FORM

Mr. SOUDER. Also in our notes on the chronology on the Travel, in some of the Travelgate hearings that the political appointee, the Director of the Department of the Army, said that Mr. Marceca is a sound and logical thinker, capable of handling any number of critical and sensitive missions at one time. He goes on to say a number of positive things. But there was an interesting line at the end: Do not be dissuaded should the military leadership of the Criminal Investigation Command object to the detail of Mr. Marceca.

If the Military Command people involved in criminal investigation where a person had been—had expressed concerns, would that have been a warning flag to you when this person was coming through, if you had been in a similar position at the White House looking at this person?

Mr. GRAY. I think so, yes, but I don't really understand what the last sentence means.

Mr. SOUDER. Apparently he had been involved in directing some agents in the Department of the Army, and the Director of the Department of Army, in effect, was signaling over to the White House that they may have professionals object to this appointment, but he who was a political appointee, was saying, go ahead and trust him.

Mr. GRAY. That would have raised a flag, yes, sir.

Mr. SOUDER. I have no more questions, Mr. Chairman.

I yield back.

Mr. CLINGER. Thank you.

If the panel will bear with me, we have one more questioner. He has been very patient and has waited here a very long time, and I don't think he can probably conclude his 5 minutes before we go vote. If you can bear with us, we will go vote and come back as fast as we can, and then we will come back so Mr. LaTourette can ask his questions.

Mr. LATOURETTE. I will run to the vote.

[Recess.]

Mr. CLINGER. The committee will resume its sitting.

When we broke for the vote on the House floor, we had reached Mr. LaTourette as the final panelist for his questions, our cleanup hitter. Mr. LaTourette is here, and as soon as we have our witnesses in place, I will recognize Mr. LaTourette for 5 minutes.

The Chair will now recognize the gentleman from Ohio, Mr. LaTourette, for 5 minutes.

Mr. LATOURETTE. Thank you very much, Mr. Chairman. And it's humid outside, I would note for the record.

Mr. Chairman, I want to add my voice in praise for you and the ranking member for scheduling this hearing. I think a number of us on this committee might be chomping at the bit to talk to Mr. Livingstone or Mr. Marceca, but by providing this panel today I think that you have given the members of the full committee the opportunity to see how this procedure was handled in previous administrations dating from the Johnson administration through the present, and for that I would comment that you and Mrs. Collins deserve credit and praise.

One of the great advantages of sitting in this place on the dais is that when it gets to be your 5 minutes, you have gotten to hear

the collective wisdom of all your colleagues and there aren't a whole lot of issues left, and you get to bat cleanup.

I do want to comment that I think everyone on the committee recognizes the serious and sensitive nature that are contained in these FBI files. I can remember in 1992, February 1992, I have a good friend back in Lake County, Ohio, who was nominated by President Bush during your tenure, Mr. Gray, to Federal bench appointment, and they not only had to complete the form, but also the FBI probed into his background.

And I will never forget; I was the prosecutor, and the judge came upstairs, and he would go to Columbus for judicial conferences, and I would go to Columbus to be a member of the Ohio Prosecuting Attorneys Association, and he said, "You're not going to believe what they're asking about." Not only the issues that Mr. Souder of Indiana raised earlier, but he cautioned that they had pulled the records from the hotel where we stayed and found out what kind of movies he watched when he was in his room alone at night, and he cautioned me never to watch "Bambi goes to Congress" or anything like that the next time I was down in Columbus.

I do want to follow up on some things mentioned during the course of testimony. Several of you have mentioned the Privacy Act during the course of your testimony, and specifically I believe that refers to the Privacy Act of 1974.

And I would ask those gentlemen who have been counsel to the President or in the Counsel's Office: It is my understanding that the Privacy Act of 1974, in addition to providing civil remedies for people who are aggrieved due to the release of information, has also a penal criminal statute and indicates that there may be a criminal sanction for not only people who willfully or knowingly release information but also for people who make the request. Is that all of your understanding as well? Six months, \$5,000, is the penalty for that type of infraction?

Mr. GRAY. To tell you the honest truth, I'm not an expert on the penal provisions of the act.

Mr. LATOURETTE. Based upon your time as counsel—again, any of you that served as counsel—are any of you aware of an exemption for the willful distribution of information collected from private files?

Mr. CULVAHOUSE. No, sir, not for willful distribution.

Mr. LATOURETTE. Ms. Gemmell, I want to go back to something is that Mrs. Morella of Maryland was asking you earlier, and that has to do with, I believe, you not only said students—or interns, but you said students, and you described them as being in the 18- to 20-year-old range working in this particular office; is that right?

Ms. GEMMELL. To the best of my knowledge, yes, sir, that would have been their approximate ages.

Mr. LATOURETTE. And this only occurred during the time that you were there sort of in the holdover between January and August during the Clinton administration?

Ms. GEMMELL. That is correct. Yes, sir.

Mr. LATOURETTE. It never occurred in any administration that you had worked prior to that?

Ms. GEMMELL. Absolutely not.

Mr. LATOURETTE. Where did these people come from? Who are these—can you just go to the White House and say, “I want to volunteer,” and they put you down in the secured personnel room? How does a volunteer get to volunteer down there, do you know?

Ms. GEMMELL. I really do not know whether these young people were personally known to Mr. Livingstone or not.

Mr. LATOURETTE. You also mentioned that if you had to look from the outside in as to how this transpired, there would have been a lack of name recognition, and by that I took it to mean when they were typing the forms, these 18- to 20-year-old students and volunteers, they may not have recognized James Baker or some of the other people on the list.

You did not mean to suggest that Mr. Livingstone or Mr. Marceca, gentlemen who had long-time involvement with the political process, wouldn't have known those individuals; you didn't mean to say that?

Ms. GEMMELL. Absolutely not.

Mr. LATOURETTE. OK. I wanted to talk about something that was talked about at the very beginning, that there are three reasons why the White House might suggest information from the FBI. Name checks was the first one. That is sort of like running somebody on the leads machine to see if there is a hit for a criminal violation or a traffic ticket; the full field investigation, that's the Form 86; and then updates on semipermanent that are done on a 4-year basis, if you recall that set of testimony. And I want to focus on those 4-year updates.

Would that—if someone, say a clerk from the Bush administration, was held over into the Clinton administration, a nonpolitical appointee, someone who had worked in the White House for 10 or 15 years, is it my understanding that their FBI file would be updated every 4 years? Is that the procedure?

Ms. DANNENHAUER. [Nonverbal response.]

Mr. LATOURETTE. So when the Clinton administration came in or any new administration came in—

Mr. CLINGER. Just so that we get for the record, if you could respond verbally so that we have it on the record.

Ms. DANNENHAUER. I'm sorry, sir. Yes, sir, that is the case.

Mr. LATOURETTE. So when a new administration would come in, all those nonpolitical appointees that would be subject to a 4-year review, you would make a request to the FBI that, “We need to have those files here so that when their 4 years comes up we are going to tickle them and we are going to have you give us an update of what they have been doing since our last review;” is that correct?

Ms. DANNENHAUER. Yes, sir, we kept a log, as I mentioned earlier, and we would month by month go through the list. All the ladies would do that and make sure they got the 86 Form in, and we would proceed with the 4-year update.

Mr. LATOURETTE. OK. And as you went through month by month, let's say that you had an individual who was hired in the middle of President Bush's term, so 2 years, that you have something to tell you that 2 years into President Clinton's term you have to do an update; is that right?

Ms. DANNENHAUER. We would if they were kept on.

Mr. LATOURETTE. That is right, if they were still at the White House.

Ms. DANNENHAUER. Yes, sir.

Mr. LATOURETTE. Can you recall, either of you ladies at the end, any time during your tenure with all the administrations that you served, somehow that 4-year review process of held over employees was expedited for any reason?

Ms. DANNENHAUER. Not to my knowledge; no, sir. It was a very routine and very voluminous job, so we would adhere very closely to what we had to do.

Mr. LATOURETTE. Mrs. Gemmell, can you recall any such instance?

Ms. GEMMELL. I could only reiterate what Ms. Dannenhauer said.

Mr. LATOURETTE. OK. So neither of you, to your knowledge—and again, we are going from the Johnson administration through the end of the Bush administration—can recall a time where you would have been requested by a supervisor to expedite a 4-year review for a held over employee, someone who perhaps stayed from another administration?

Ms. DANNENHAUER. No, sir.

Mr. LATOURETTE. OK. Thank you very much.

In my last time remaining I want to focus on the FBI, because there have been some observations that it is perhaps these two political operatives that were put in charge and they are the ones to blame and only to blame.

Were any of you gentlemen or you ladies ever refused a request made to the FBI? In other words, does the FBI have any responsibility at all, when they get one of these forms with the counsel's name typed in, to question or ask a question as to why the heck are you guys or you gals asking for this information?

Ms. DANNENHAUER. Well, sir, I can just answer that by saying, whenever we made a request, we had a reason on that request, and if they—well, they just wouldn't question it if it were a name check, a full field, or the copy of the previous report. And that's what we asked the Bureau for. We always had a reason, sir.

Mr. LATOURETTE. And would it be fair, just to restate some of the testimony that we have heard throughout the course of today, that with this list that we are talking about today, none of you can think of a legitimate reason for the request by the White House to the FBI for these 408 personnel files?

Ms. DANNENHAUER. No, sir.

Mr. LATOURETTE. Nobody?

Mr. CULVAHOUSE. No, sir.

Mr. GRAY. No, sir.

Mr. LATOURETTE. Thank you very much for your patience, Mr. Chairman.

Mr. CLINGER. Thank you, Mr. LaTourette.

Now I have to admit to the panel that I lied to you. We have another member who has arrived from a Budget Committee meeting, and I would like to recognize the gentleman from Connecticut.

Mr. SHAYS. Thank you. I think both sides have established their positions, and I understand the panels have done a very good job of responding, and you set the foundation for future hearings.

I just wanted to say for the record, I consider this an extraordinarily important hearing, and I appreciate your participation. I was, in fact, at a Budget Committee in which we voted out welfare reform and Medicaid reform. And I feel particularly compelled to say that, because as someone who participated on the HUD investigation—and, Mr. Gray, as you realize, the White House cooperated fully with Mr. Lantos and this committee when we looked at abuses by a previous administration; and we in the minority then, the Republican minority, cooperated fully with the Lantos hearing. Mr. Kemp—Secretary Kemp, cooperated fully. The White House cooperated fully. And there could have been a temptation to say this was a witch-hunt, but we were in a hunt for the truth.

I just want to say for the record, I consider this hearing of the same stature. Mr. Clinger has been working for years patiently. He hasn't gone before the press except at extreme moments. He has allowed the White House more than ample time to cooperate, and they didn't. We were forced at a hearing to actually hold the White House in contempt, and only then did we get the list that we had been requesting, and it turned out to be not a list of seven people but a list of 400. And we know why. It was basically a cover-up.

So anyone who has followed this knows there has been a cover-up and we are simply looking to get the truth. And I have never, ever found a chairman who has been more patient in his effort and has been less abusive of power and totally responsible. And I wanted to be on the record on that point as someone who participated with another member of this committee on what was called the Lantos hearings. We in the minority cooperated fully, and we need that same cooperation from this minority.

And I just thank the gentleman for allowing me to put that on the record.

Mr. CLINGER. Thank you for those kind words, if you need any more time.

Ladies and gentlemen, I just want to thank you all very, very sincerely for your appearance here today, for the excellent testimony you have given. I think we have made a very good record as to what transpired in earlier administrations, both Republican and Democratic, in terms of this issue of background checks and who controlled them and so forth. We have had a very good discussion, I think, of executive privilege and when it lies and when it does not lie, and you have been very helpful in the information you have given the committee.

I can announce that we will hold additional hearings on this matter. I really wanted to use this hearing to sort of establish a base of what has been the procedures in the past. Now we need to establish were there variances from those procedures that occurred in this administration. So we will be looking at that.

We also need to explore the question of, there is some nebulous list, and it is still not clear in my mind where the list came from, how it was ginned up, and apparently the Secret Service indicated they couldn't have produced the list such as we have, and so there is a question that needs to be looked at.

I would stress that we are not making any allegations of wrongdoing at this point. We are merely trying to get all the facts on the table.

I would also close by saying that we have not lost sight of the fact that there are still 2,000 pages of documents that are outstanding with regard to our basic investigation which has to do with the Travelgate firing, and we will proceed and pursue getting those documents before us as well.

So I think we can anticipate there will be a hearing either Wednesday or Thursday of next week to pursue these matters in more detail.

Thank you all very much, and the committee stands adjourned.
[Whereupon, at 2:41 p.m., the committee was adjourned.]

